

**JOINT FORCES STAFF COLLEGE
JOINT ADVANCED WARFIGHTING SCHOOL**

**UNDERSTANDING LAW ENFORCEMENT SUPPORT TO
NATIONAL SECURITY PROBLEMS AND PROSPECTS**

by

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A paper submitted to the Faculty of the Joint Advanced Warfighting School in partial satisfaction of the requirements of a Master of Science Degree in Joint Campaign Planning and Strategy.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Joint Forces Staff College or the Department of Defense.

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ABSTRACT

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ABBREVIATIONS

ATA	<i>Antiterrorism Assistance Program (DS)</i>
ATF	<i>Bureau of Alcohol, Tobacco, Firearms, and Explosives (DOJ)</i>
CBP	<i>U.S. Customs and Border Protection (DHS)</i>
CIV	<i>Office of Civilian Police and Rule of Law (INL)</i>
CivPol	<i>Civilian Police (INL)</i>
CJIS	<i>Criminal Justice Information Services (FBI)</i>
CJSART	<i>Criminal Justice Sector Assessment Rating Tool</i>
CODIS	<i>Combined DNA Index System (FBI)</i>
COIN	<i>Counterinsurgency</i>
CPATT	<i>Civilian Police Assistance Training Team</i>
CPOT	<i>Consolidated Priority Organization Target(DOJ)</i>
CSI	<i>Container Security Initiative (CBP)</i>
CT	<i>Counterterrorism</i>
CTAG	<i>G8's Counterterrorism Action Group</i>
C-TPAT	<i>Customs-Trade Partnership Against Terrorism (CBP)</i>
DEA	<i>U.S. Drug Enforcement Agency (DOJ)</i>
DFA	<i>Director of Foreign Assistance (DOS/USAID)</i>
DHS	<i>Department of Homeland Security</i>
DNI	<i>Director of National Intelligence</i>
DOJ	<i>Department of Justice</i>
DOS	<i>Department of State</i>
DS	<i>Bureau of Diplomatic Security (DOS)</i>
FAST	<i>Foreign Deployed Advisory Support Team (DEA)</i>
FATF	<i>Financial Action Task Force (INL)</i>
FBI	<i>Federal Bureau of Investigation (DOJ)</i>
FLETC	<i>Federal Law Enforcement Training Center (DHS)</i>
FMF	<i>Foreign Military Financing (DOS)</i>
GAO	<i>Government Accountability Office (formerly General Accounting Office)</i>
GPRA	<i>Government Performance and Results Act</i>
IAEA	<i>International Atomic Energy Agency</i>
IAFIS	<i>Integrated Automated Fingerprints Identification System (FBI)</i>
ICAO	<i>International Civil Aviation Organization</i>
ICE	<i>U.S. Immigration and Customs Enforcement (DHS)</i>
ICITAP	<i>International Criminal Investigative Training and Assistance Program</i>
ILA	<i>Intermittent Legal Advisor (DOJ)</i>
ILEA	<i>International Law Enforcement Academy (INL)</i>
IMET	<i>International Military Education and Training</i>
IMO	<i>International Maritime Organization</i>
INCSR	<i>International Narcotic Control Strategy Report (INL)</i>
INL	<i>Bureau of International Narcotics and Law Enforcement Affairs (DOS)</i>
INTERPOL	<i>International Police (DOJ)</i>

IRS	<i>Internal Revenue Service</i>
ITDB	<i>International Trafficking Database</i>
ITT	<i>International Training and Technical Assistance Division (FLETC)</i>
LEA	<i>Law Enforcement Agency</i>
LEC	<i>Law Enforcement Community</i>
Legat	<i>Legal Attaché (FBI)</i>
MALET	<i>Mexican/American Law Enforcement Training (FBI)</i>
MLAT	<i>Multilateral and Mutual Legal Assistance Treaties (DOJ)</i>
NCIC	<i>National Crime Information Center (FBI)</i>
NCTC	<i>National Counterterrorism Center(DNI)</i>
NDCS	<i>National Drug Control Strategy</i>
NSCT	<i>National Strategy for Combating Terrorism</i>
NSCTT	<i>National Strategy to Combat Terrorist Travel</i>
NSHS	<i>National Strategy for Homeland Security</i>
NSPD	<i>National Security Presidential Directive</i>
NSS	<i>National Security Strategy</i>
OCDETF	<i>Organized Crime Drug Enforcement Task Force</i>
OFC	<i>OCDETF's Fusion Center</i>
OIA	<i>Office of International Affairs</i>
OIF	<i>Operation Iraqi Freedom</i>
OPDAT	<i>Overseas Prosecutorial Development, Assistance and Training</i>
OSAC	<i>Overseas Security and Advisory Council (DS)</i>
OSCE	<i>Organization for Security and Cooperation in Europe</i>
PAR	<i>Performance and Accountability Report</i>
PTI	<i>Pacific Rim Training Initiative</i>
RLA	<i>Resident Legal Advisor (DOJ)</i>
RSO	<i>Regional Security Officer (DOS)</i>
S/CRS	<i>Dept. of State's Coordinator for Reconstruction and Stabilization</i>
S/CT	<i>Dept. of State's Coordinator for Counterterrorism</i>
SEED	<i>Support for East European Democracy</i>
SFI	<i>Secure Freight Initiative (CBP)</i>
SIU	<i>Sensitive Investigative Unit (DEA)</i>
TFWG	<i>Terrorist Finance Working Group</i>
TRI	<i>International Training Section (DEA)</i>
UN	<i>United Nations</i>
UNSCR	<i>United Nations Security Council Resolution</i>
USAID	<i>U.S. Agency for International Development</i>
USC	<i>United States Code</i>
USCG	<i>U.S. Coast Guard (DHS)</i>
USG	<i>United States Government</i>
USMS	<i>U.S. Marshals Service (DOJ)</i>
USNCB	<i>U.S. National Central Bureau (DOJ)</i>
USSS	<i>U.S. Secret Service (DHS)</i>
WMD	<i>Weapons of Mass Destruction</i>

Chapter 1

Introduction

Transnational crime and terrorism are among the greatest threats facing the United States. The best defense is prevention; engagement overseas to ensure that foreign countries have a functioning rule of law system that enables the interdependent functions of law enforcement, prosecutors, courts and prisons to operate collectively in support of each other. Strengthening the rule of law functions in foreign governments directly contributes to the U.S. National Security Strategy of combating transnational threats.

Since 2001, with the establishment of the Department of Homeland Security and the Director of National Intelligence, law enforcement has been recognized as an element of national power. However, unlike other elements of national power (diplomacy, information, military, economic, financial, and intelligence); law enforcement is not adequately defined, nor is there a designated executive agent responsible for the coordination and oversight of overseas law enforcement engagement. The lack of an integrated strategy and organizational construct to synchronize regional foreign law enforcement assistance programs adds to the confusion and complexity of long-term regional security development.

The thesis of this paper is: U.S. strategy and organizational approach to conducting foreign law enforcement assistance indirectly limits the effectiveness of overseas programs. The current decentralized process doesn't capitalize on the synergistic potential of the national and international law enforcement communities or

other elements of national power. Without a formal process, federal agencies have defined their own implementation strategies and ad-hoc coordinating mechanisms. This paper explores law enforcement as an element of national power; defines its contributions, limitations and challenges; and provides recommendations to maximize interagency competencies and unity of effort to strengthen foreign rule of law functions. Each chapter (less the introduction and conclusion) includes a brief summary, and Chapter 6 (Findings and Recommendations) includes an expanded evaluation and synthesis of each chapter.

The methodology utilized in this study is a comparative analysis of the ends, ways and means of the national and departmental strategies relating to foreign law enforcement assistance and the effectiveness of overseas law enforcement capacity building programs. The research expands upon the May 2007 U.S. Government Accountability Office (GAO) report; *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorist*,¹ and the subsequent October 2007 GAO testimony to the House of Representatives Subcommittee on Border, Maritime, and Global Counterterrorism, Committee on Homeland Security; *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations*.²

¹ GAO, *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorists*, GAO-07-697 (Washington, DC: May 25, 2007).

² GAO, *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations*, GAO-08-144T (Washington, DC: October 4, 2007).

Chapter 2

GAO Study

Following the terrorist attacks of 9/11, the President issued a series of national strategies, beginning in 2002 and updated in 2006, that provided broad direction for overseas U.S. law enforcement efforts to assist foreign nations to identify, disrupt, and prosecute terrorists. These strategies collectively called for reorienting U.S LEAs to proactively work to prevent terrorist attacks at home and abroad. However, they lacked key components, such as clearly defined objectives, roles and responsibilities, and procedures for working across agency boundaries toward a common goal, necessary for a strategic plan and for facilitating interagency collaboration.³

The U.S Government Accountability Office (GAO) completed a multi-year study in May 2007 that assessed the guidance provided to federal LEAs to assist foreign nations to identify, disrupt, and prosecute terrorist and the extent to which the federal LEAs have implemented this guidance.⁴ The scope of the study focused primarily on eight federal LEAs that have overseas presence operating from U.S. embassies. The Department of Justice (DOJ) LEAs included the Federal Bureau of Investigation (FBI); Drug Enforcement Agency (DEA), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); and the U.S Marshals Service (USMS). The Department of Homeland Security (DHS) LEAs included U.S. Immigration and Customs Enforcement (ICE); U.S. Customs and Border Protection (CBP); and the U.S Secret Service (USSS). The Department of

³ GAO, *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorists*, GAO-07-697 (Washington, DC: May 25, 2007), 3.

⁴ Ibid., 1-3.

State (DOS) LEA was the Bureau of Diplomatic Security (DS).⁵ The methodology used in the study consisted of document research and interviews utilizing the Government Performance and Results Act (GPRA) as a framework for analysis and comparison.⁶

The GPRA, enacted in 1993, requires all federal agencies to implement strategic planning and performance-based management processes. The requirements include a five year strategic plan, annual performance plan, and annual performance report. Key elements include descriptions of the goals and objectives, the operational process on how they are going to achieved, measured and evaluated, and the identification of required sources external to the agency.⁷

The GAO reviewed the 2002 and 2006 National Security Strategy, the 2002 National Strategy for Homeland Security, the 2003 and 2006 National Strategy for Combating Terrorism, and the 9/11 Commission Report. These documents were compared to the department's five-year strategic plans, annual performance plans and reports. GAO also analyzed the documents for key elements from earlier GAO study

⁵ GAO, *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations*, GAO-08-144T (Washington, DC: October 4, 2007), 4.

⁶ GAO-07-697, 50.

⁷ Office of Management and Budget, "Government Performance and Results Act of 1993," <http://www.whitehouse.gov/omb/mgmt-gpra/gplaw2m.html#h1> (accessed September 16, 2007).

recommendations⁸ and GPRA requirements that included clearly defined objectives, roles and responsibilities, leveraged funding, and monitoring systems.⁹

Between August 2005 and March 2007, GAO conducted detailed interviews with representatives from Justice, Homeland Security and State, the eight federal LEAs, and four overseas embassies including foreign officials. GAO requested LEA input, and continually shared their findings to ensure an accurate assessment of the issues. None of the LEAs provided a comprehensive list of accomplishments; however, the departments did provide comments to the completed study that will be discussed later in this paper.¹⁰

GAO found that the national “strategies have called for expanding LEAs’ overseas activities to include working with foreign nations and building their capacity toward a shared goal of identifying and disrupting terrorist plots, and bringing these terrorists to justice in courts of law.”¹¹ However, the national strategies “have not provided specific roles, objectives, resources, or mechanisms for determining success.”¹² According to the embassy officials visited, “despite counterterrorism being the embassy’s highest priority, they received little to no guidance on how to determine country assistance needs in this area; design a coordinated assistance program using the full

⁸ Related GAO studies; *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (June 1996); *Combating Terrorism: Observations on National Strategies Related to Terrorism*, GAO-03-519T (March 2003); *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, GAO-06-15 (October 2005); *Managing For Results: Enhancing Agency Use of Performance Information for Management Decision Making*, GAO-05-927 (September 2005).

⁹ GAO-07-697, 50.

¹⁰ Ibid., 50-51.

¹¹ Ibid., 44.

¹² Ibid.

capacities of U.S. LEAs; and ensure that the LEAs had the necessary directives, capabilities, and time to work closely with foreign nation officials to stop terrorist attacks.”¹³

GAO found that the 2003 and 2006 versions of the National Strategy for Combating Terrorism, listed the Department of State as the lead coordinating agency for combating terrorism overseas. State’s Coordinator for Counterterrorism (S/CT) is the office responsible for coordinating all U.S. counterterrorism efforts with foreign governments including providing oversight and policy guidance to U.S. LEAs operating overseas. Although S/CT has implemented a number of initiatives that have improved overseas coordination, they still lack the staff and resources to effectively plan, develop and lead overseas law enforcement assistance.¹⁴

The National Counterterrorism Center (NCTC) was established in 2004 (part of Intelligence Reform Act) for the purpose of developing strategic operational plans to combat terrorism using every element of national power, including law enforcement. The NCTC works for the Director of National Intelligence for intelligence collection and analysis and under the National Security Council (NSC) for counterterrorism planning.¹⁵ NCTC’s mission has expanded to coordinating and assigning roles and responsibilities to lead departments and agencies, ensuring they have the required intelligence support and monitoring their execution. The Director of NCTC testified before congress in June 2006

¹³ Ibid., 44-45.

¹⁴ GAO-07-697, 17.

¹⁵ GAO-08-144T, 4.

that the lack of a detailed plan to ensure the full implementation of the national security strategy had been a void that stretched back for decades...what has long been missing is a plan to ensure that national strategies are implemented at the operational level in a coordinated, integrated fashion, and that there has been no formal process to translate the national strategies into strategic and tangible objectives, assigned to lead agencies, with roles and responsibilities clearly defined. In addition, there has been no plan to ensure the coordination, integration, and synchronization of joint departmental operations, or any effort to monitor the combined impact of the multiple agencies engaged in implementing the national security strategy.¹⁶

NCTC officials informed GAO that they have drafted a general plan that was approved by the President in June 2006, but were still working on the implementation guidance (as of March 2007) and declined to share any information regarding the plan with GAO.¹⁷

GAO discovered that some of the federal LEAs have increased their overseas efforts providing operational and or technical assistance; however, the executive departments have generally failed to translate the broad national strategies into coordinated agency specific responsibilities.¹⁸ GAO recommended (see table 2.1) that the Director of NCTC ensure that the implementation guidance for NCTC's combating terrorism plan "clearly articulates the specific objectives for each LEA, clarifies their roles and responsibilities, and proposes actions linked to available resources and directed at the most pressing needs for assisting foreign nations to identify, disrupt, and prosecute terrorist."¹⁹ GAO also recommended that DOJ, DHS and DOS issue clear guidance and objectives to their respective LEAs and provide periodic updates to Congress on their progress. In addition, GAO recommended that the Secretary of State (in conjunction

¹⁶ GAO-07-697, 20-21.

¹⁷ Ibid., 21.

¹⁸ GAO-08-144T, 9-10.

¹⁹ GAO-07-697, 45.

with the Attorney General and Secretary of Homeland Security) look at reorienting embassy operations to enhance LEA coordination overseas.²⁰

Table 2.1. GAO Recommendations

<p><i>Director of the National Counterterrorism Center (NCTC) in consultation with the National Security Council (NSC), ensure that the implementation guidance for the NCTC's plan for combating terrorism:</i></p> <ul style="list-style-type: none"> ➤ Articulates a clear strategy to implement the national security goal of using the combined capabilities of LEAs to help foreign nations identify, disrupt, and prosecute terrorists. ➤ Clarifies the roles and responsibilities of each LEA for (1) helping enhance the capabilities of foreign police, prosecutors, and judges for combating terrorism; and (2) working more closely with foreign nations on the operational efforts to identify, disrupt, and prosecute terrorists. ➤ Includes a mechanism for comprehensively (1) assessing the needs of foreign nations for identifying, disrupting, prosecuting terrorists; (2) deciding which needs U.S. LEAs should help address; (3) determining which U.S. LEA programs or activities are best suited to address those needs; and (4) ensuring that U.S. LEAs are provided guidance on setting funding priorities and providing resources to address those needs. ➤ Requires a monitoring system that provides the executive departments, LEAs, and Congress accurate reporting on accomplishments, impediments, and planned improvements for LEAs assisting foreign nations to identify, disrupt, and prosecute terrorists. <p><i>U.S. Attorney General and the Secretaries of Homeland Security and State each:</i></p> <ul style="list-style-type: none"> ➤ Issue clear guidance to their respective component agencies and bureaus on how those agencies and bureaus should implement the national security strategies' goal of using the full capabilities of LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists. ➤ Establish a monitoring system that provides the respective department and Congress with accurate reporting on that department's accomplishments, impediments, and planned improvements in their LEAs' efforts to help foreign nations combat terrorism. <p><i>Secretary of State, in conjunction with the U.S. Attorney General and Secretary of Homeland Security:</i></p> <ul style="list-style-type: none"> ➤ Explore the creation of new structures at U.S. embassies to improve information sharing and coordination among U.S. LEAs for assisting foreign nations combating terrorism.

Source: Data from GAO, *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorists*, GAO-07-697 (Washington, DC: May 25, 2007), 45-46.

²⁰ Ibid., 46.

Summary

GAO's study was requested by Congressman Christopher Shays, ranking member on the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, House of Representatives. GAO was asked to "assess (1) the guidance for LEAs to assist foreign nations to identify, disrupt, and prosecute terrorists and (2) the extent to which LEAs have implemented this guidance."²¹ The study was narrowly focused on foreign law enforcement assistance that specifically contributed to combating terrorism. This limited scope and misunderstanding of the federal LEAs' responsibilities and the process of strengthening rule of law functions contributed to skewed findings and recommendations. Although the GAO's recommendations were partly flawed, they were accurate in identifying the vast confusion that surrounds the issue of providing overseas law enforcement assistance (see page 65 for an expanded evaluation). Chapter three explores the rule of law concept and provides a common framework for understanding law enforcement assistance.

²¹ Ibid., 1-2.

Chapter 3

Strengthening the Rule of Law

The “rule of law” is a concept at the very heart of the Organization’s mission. It refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.²²

The rule of law is the foundation of stable government. “In a democracy, the rule of law is manifested in an independent judiciary, a free press and a system of checks and balances on leaders through free elections and separation of powers among the branches of government.”²³ A functioning criminal justice system is required to maintain the rule of law.

The criminal justice system is comprised of four interdependent institutions (see figure 3-1):²⁴

civilian police that protect human rights, prevent and investigate crimes; public prosecutors that

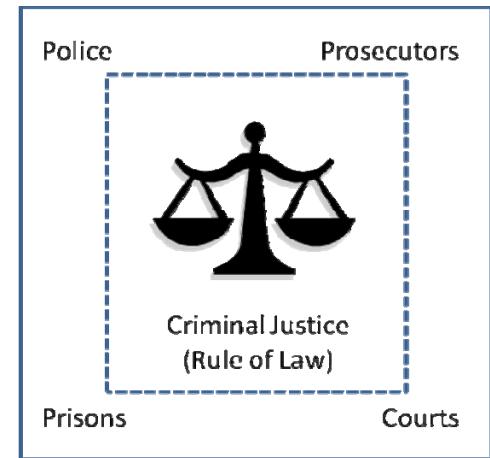


Figure 3.1. Criminal Justice System.

²² UN Security Council, Report of the Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies*, S/2004/616 (August 23, 2004), 4.

²³ Dept. of State International Information Programs, “Rule of Law,” http://usinfo.state.gov/dhr/democracy/rule_of_law.html (accessed October 3, 2007).

²⁴ USAID Democracy and Governance, “Strengthening the Rule of Law & Respect for Human Rights,” http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/rule_of_law/ (accessed September 26, 2007).

review evidence and decide to initiate criminal prosecution; courts that uphold the law and fairly adjudicate cases; and prisons that humanely incarcerate and reform convicted offenders. Weak nation states, especially those recovering from conflict, typically have failed criminal justice systems that not only permit but promote corruption, crime and disorder. “Without a strong and functioning criminal justice system - prosecutors to prosecute arrested persons, courts to try them, and prisons to incarcerate them - the police may by default apply "street justice" as judge, jury and jailer while human and civil rights are ignored and violated.”²⁵ Stability and security can only be obtained and maintained through a fair and functioning criminal justice system.

In many states with weak or newly-emerging democratic traditions, existing laws are not fair or are not fairly applied, judicial independence is compromised, individual and minority rights are not truly guaranteed, and institutions have not yet developed the capacity to administer existing laws. Weak legal institutions endanger democratic reform and sustainable development in developing countries. Without the rule of law, the executive and legislative branches of government operate without checks and balances, free and fair elections are not possible, and civil society cannot flourish.²⁶

The United Nations (UN) has assumed a lead role in recent years promoting the concept of rule of law development. Lessons learned from the past two decades, consistently reinforce the importance of quickly restoring the criminal justice system as a pre-requisite to national reconciliation and lasting peace.²⁷ “The consolidation of peace in the immediate post-conflict period, as well as the maintenance of peace in the long term,

²⁵ U.S. Department of State, “The United States and International Civilian Policing and the Rule of Law (CIV) – July 12, 2007,” <http://www.state.gov/p/inl/rls/fs/91396.htm> (accessed September 23, 2007).

²⁶ USAID.

²⁷ UN General Assembly-Security Council, Report of the Secretary-General, *Uniting our Strengths: Enhancing United Nations Support for the Rule of Law*, A/61/636-S/2006/980 (December 14, 2006), 3.

cannot be achieved unless the population is confident that redress for grievances can be obtained through legitimate structures for the peaceful settlement of disputes and the fair administration of justice.”²⁸

The UN has recently established the Rule of Law Coordination and Resource Group led by the Deputy Secretary General to assume overall coordination among lead entities; establish clear responsibilities; and to synchronize various rule of law activities and policies.²⁹ Prior to 2003, legal, judicial and prison reform were not normally included in United Nation’s planning and mission sets. Today they are an integral part of the process. “The peacekeeping mission planning template includes police, judicial and prison reform elements that are closely associated with other key components, including human rights.”³⁰ Key to the UN planning process is the assessment of the host nation’s needs and capabilities within a cultural and regional context. “Too often, the emphasis has been on foreign experts, foreign models and foreign-conceived solutions to the detriment of durable improvements and sustainable capacity.” The only long-term solution to reforming a nation’s criminal justice system is the mobilization of domestic stakeholders to assume responsibility for its direction and progress.³¹

²⁸ UNSC, 3.

²⁹ UNGA-SC, 2.

³⁰ Ibid., 4-5.

³¹ UNSC, 6.

Law Enforcement Assistance

U.S. law enforcement support to foreign governments is generally defined as technical or operational assistance.

LEA assistance can include technical assistance, such as the provision of training in police techniques and legal reforms, as well as investigative or operational assistance, which can support efforts such as joint teams of U.S. and foreign nation LEAs working together to stop crimes, illegal drug operations, or terrorists attacks.³²

Technical assistance (capacity building) includes providing training and technological support to enhance foreign LEAs capabilities to identify, investigate (in accordance with internationally accepted standards) and prosecute criminals. Operational assistance (operational reach) includes joint investigations, operations and information sharing activities normally in the capacity of extending the U.S. federal LEAs domestic statutory responsibilities and core competencies abroad.³³ Technical assistance may also include “implementing legal reforms aimed at ensuring that foreign nations have the necessary laws to carry out this effort, and that investigators, prosecutors, and judges have the capacity to effectively prosecute terrorists using these new laws.”³⁴

The GAO study initially only recognized law enforcement assistance that was directly linked to combating terrorism. DOJ successfully challenged this narrow view in their 16 February 2007 response to GAO’s draft report. “The ability of foreign countries to prosecute terrorist.....depends on having functioning law enforcement and justice

³² GAO, *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations to Identify, Disrupt, and Prosecute Terrorists*, GAO-07-697 (Washington, DC: May 25, 2007), 7.

³³ GAO, *Combating Terrorism: Law Enforcement Agencies Lack Directives to Assist Foreign Nations*, GAO-08-144T (Washington, DC: October 4, 2007), 1-6.

³⁴ Ibid., 6.

sector institutions and professionals capable of carrying out complex investigation and prosecutions. These capabilities are not “terrorism- specific,” but they are necessary prerequisites to an ability to identify, disrupt, and prosecute terrorist using the most modern techniques.³⁵ In addition, DOJ also challenged GAO’s definition of a terrorist. A terrorist is not just the person who actively conducts the attack. It also includes those who facilitate the attack; financier, travel facilitator, document counterfeiter, weapons and material smuggler, and others.³⁶ Developing the capacities of foreign police, prosecutors, judicial and correctional personnel “strengthens U.S. national security by creating sustainable foreign law enforcement institutions that promote democratic principles, instill respect for human rights and human dignity, and reduce the threat of transnational crime and terrorism.”³⁷

The GAO report recognized the vast technical assistance programs that U.S. LEAs were providing foreign nations from legal reform to the general capacity building of criminal justice institutions. However, it also identified the lack of “comprehensive country needs assessments” that hinder interagency collaboration and synchronized development. These country needs assessments are critical to identifying the foreign government’s key vulnerabilities, coordinating and prioritizing what assistance is needed, and determining what U.S. agency is best suited to provide it.³⁸

³⁵ GAO-07-697, 59.

³⁶ Ibid., 58.

³⁷ Ibid., 60.

³⁸ Ibid., 42-43.

Nation-Building

The most important tasks for those engaged in peacekeeping or counterinsurgency (COIN) operations are the reconstruction and sustainment of the host nation judicial system. In a deteriorating security environment, “host nation legal structures - courts, prosecutors, defense assistance, and prisons – may cease to exist or function at any level.”³⁹ In accordance with U.S. Army and Marine Corps COIN doctrine, establishing the rule of law is a key goal and end state in COIN. Defining that end state requires extensive coordination between the instruments of U.S. power, the host nation, and multinational partners. Additionally, attaining that end state is usually the province of HN authorities, international and intergovernmental organizations, the Department of State, and other U.S. Government agencies, with support from U.S. forces in some cases.⁴⁰

Key rule of law tenants include; a government that derives its powers from those that are governed, provides for their collective security, political and economic development; sustains fair, just and transparent security institutions with civilian controlled police, courts and penal institutions that uphold fundamental human rights.⁴¹ One of the crucial lessons that the U.S. learned from its Somalia experience (1992-1994) “was the importance of deploying significant numbers of international police alongside international military forces to places where the local law enforcement institutions had disappeared or become illegitimate.”⁴²

³⁹ Dept. of the Army, *Counterinsurgency*, Field Manual No. 3-24 (Washington, DC: December 15, 2006), D-9.

⁴⁰ Ibid., D-8.

⁴¹ Ibid., D-9.

⁴² James Dobbins, “Nation-Building, The Inescapable Responsibility of the World’s Only Superpower,” *Rand Review* 27, no. 2 (Summer 2003): 21.

Transnational Threats

All criminals may not be terrorists but all terrorist are criminals and part of a global network of sophisticated smuggling operations that move illegal goods and services across borders. The most common are drugs, weapons, money and people.

Terrorist and criminal organizations rely on the same global transportation, communication, and financial infrastructures for illegal ploys. They take advantage of the same breakdowns in authority and enforcement in states under siege. They both seek increasing shares of the fortunes generated from narco-trafficking and other crimes. Whether mercenaries are hired to do the bidding of drug lords or of terrorist kingpins, the hit teams share a single motive in employing violence—earning their financial keep.⁴³

All international networks require money to operate; narco-traffickers normally have the largest amount of accessible funds and the most direct access to high-tech smuggling routes. Attacking the narco-trafficker's sources of supply and lines of communication reduces the same infrastructure required by other criminal and terrorist elements.⁴⁴

The President's 2006 annual report to Congress (Presidential Determination No. 2006-24) listed 20 nations as major drug producing and or drug transit countries: "Afghanistan, The Bahamas, Bolivia, Brazil, Burma, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, and Venezuela."⁴⁵ Burma and Venezuela were also listed as failing to meet counter narcotics objectives over the past year. This designation restricts further

⁴³ Glenn E. Schweitzer, "The Nexus of International Organized Crime and Terrorism -The Case of Dirty Bombs," *Testimony to the Subcommittee on Prevention of Nuclear and Biological Attacks, House Committee on Homeland Security* (September 22, 2005), http://www.nti.org/e_research/official_docs/congress/congress_092205Schweitzer.pdf (accessed October 16, 2007).

⁴⁴ Ibid., 7.

⁴⁵ Dept. of State, Bureau for International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy, Report Volume I - Drug and Chemical Control* (Washington, DC: March, 1 2007), 7.

U.S. assistance unless the President validates that the support is vital to furthering democratic reform (as he did for Venezuela).⁴⁶ The Presidential report is derived from the annual International Narcotics Control Strategy Report (INCSR). The INCSR is published annually by State Department's International Narcotics and Law Enforcement Bureau (INL) in accordance with the Foreign Assistance Act. The report consists of two volumes; drug and chemical control, and money laundering and financial crimes. The report provides country assessments on those nations that have received assistance in the past two years and their progress on meeting the UN's drug convention objectives.⁴⁷ Eight countries (Argentina, Brazil, Canada, China, Germany, India, Mexico, the Netherlands, and the U.S.) were listed as major sources of chemicals used in the production of drugs, and 59 countries (including the U.S.) were listed as major money laundering counties.⁴⁸

There have been numerous reports linking terrorist groups to drug trade in Afghanistan and Philippines (including Al Qaeda). In addition, there is serious concern that some of these groups have used drug money to purchase radioactive materials.⁴⁹ In accordance with the Office of Nuclear Security, International Atomic Energy Agency (IAEA), there were 1080 confirmed incidents reported to the Illicit Trafficking Database (ITDB) from 1993-2006: 275 were categorized as “unauthorized possession and related criminal activity” (defined as illicit trafficking); 332 were categorized as “theft or loss”;

⁴⁶ State, INL, *Report Volume I*, 7.

⁴⁷ Ibid., 3.

⁴⁸ Ibid., 5-6.

⁴⁹ Schweitzer, 6.

398 were categorized as “unauthorized disposal;” and another 75 lacked sufficiency to accurately determine.⁵⁰ Eighteen cases (15 seizures and 3 discoveries) involved highly enriched uranium or plutonium.⁵¹

Foreign Assistance Act

The U.S. has been providing foreign police assistance since the 1950s. Assistance increased in the 1960s to counter potential communist insurgent expansion.⁵² Lessons learned from the Marshal Plan and the rebuilding of Europe after World War II, led to the passage of the Foreign Assistance Act in 1961. This act essentially consolidated all U.S. economic and social development assistance programs under one agency creating the U.S. Agency for International Development (USAID).⁵³ USAID operated a successful public safety program during the 1960s that provided training to foreign police in a myriad of specialties; “criminal investigation, patrolling, interrogation and counterinsurgency techniques, riot control, weapon use, and bomb disposal.”⁵⁴

Due to concerns over the lack of policy guidance that permitted support to repressive governments, Congress added Section 660 to the Foreign Assistance Act in

⁵⁰ International Atomic Energy Agency, Office of Nuclear Security, “IAEA Illicit Trafficking Database (ITDB) – 2006 Fact Sheet,” http://www.iaea.org/NewsCenter/Features/RadSources/PDF/fact_figures2006.pdf (accessed October 21, 2007).

⁵¹ IAEA, “Incidents involving HEU and Pu confirmed to the ITDB, 1993-2006,” http://www.iaea.org/NewsCenter/Focus/NuclearSecurity/pdf/heu-pu_1993-2006.pdf (accessed October 21, 2007).

⁵² GAO, *Foreign Aid: Police Training and Assistance*, GAO/NSIAD-92-118 (Washington, DC: March 5, 1992), 1.

⁵³ USAID, About USAID, “USAID History,” http://www.usaid.gov/about_usaid/usaidhist.html (accessed October 21, 2007).

⁵⁴ GAO/NSIAD-92-118, 1.

December 1974 that generally prohibited the use of appropriated foreign assistance funds to train police. However, this prohibition didn't restrict federal law enforcement activities and other agencies from using other appropriated funds to continue training initiatives. Since 1981, Congress has authorized numerous exceptions to Section 660 for specific assistance to enhance foreign police, judicial and prison systems.⁵⁵

The authority to provide foreign assistance belongs to the State Department. Providing assistance to foreign police (when authorized) has traditionally been led by State's Bureau of International Narcotics and Law Enforcement Affairs. DOD normally requires specific authorization under a Presidential Directive to assist foreign police forces. However, DOD personnel may deploy as part of the diplomatic mission to provide technical assistance under Title 22 and Title 10 of the United States Code (USC).⁵⁶ Deployed DOD personnel may also (when authorized by the President) and in coordination with the Country Team, train and advise foreign security forces as part of an operational mission using DOD appropriations. However, congressionally approved foreign assistance appropriated funds must be used for all other training assistance, equipment, weapons, services and supplies (as occurred in 2005 with the Iraq and Afghan Security Forces Funds). In addition, National Security Presidential Directive 36 dated 11 May 2004, gave the Commander, U.S. Central Command (under the Chief of Mission's policy guidance) authority to direct all U.S. Government efforts to organize, train and equip the Iraqi Security Forces (includes the police).

⁵⁵ GAO, *Foreign Assistance: Meeting the Training Needs of Police in New Democracies*. GAO/NSIAD-93-109 (Washington, DC: January 21, 1993), 2.

⁵⁶ HQDA, FM 3-24, D1-2.

Additionally, Congress requires human rights vetting of those foreign activities receiving the assistance.⁵⁷

Summary

Strengthening the rule of law enhances stability, political reform, economic development and prosperity. It involves the parallel development of all criminal justice institutions (police, prosecutors, courts and prisons). Building capacity in foreign criminal justice systems not only supports U.S. efforts to fight transnational crimes (including terrorism), but also promotes democracy, human rights, and strengthens the host nation's ability to appropriately respond to internal threats.

Weak and emerging nation states are threatened more by internal elements than external forces. Federal LEAs routinely provide technical and operational assistance to foreign police forces. However, this support is dwarfed by the amount of military assistance provided by the U.S. to foreign militaries principally for external security.

“This disparity is a direct result of Section 660 of the Foreign Assistance Act.”⁵⁸

Improving the general capacity of foreign police, prosecutors and judges to collaboratively investigate and prosecute transnational crimes are the same skill sets required to interdict terrorist activities. The best defense to avoiding the failed-state phenomena is prevention (strengthening the host nation’s criminal justice institutions). Chapter four examines national strategies to provide foreign law enforcement assistance.

⁵⁷ HQDA, FM 3-24, D7-8.

⁵⁸ Dana R. Dillon, “The War on Terrorism in Southeast Asia: Developing law Enforcement,” *Backgrounder*, no. 1720 (January 22, 2004), 1.

Chapter 4

Presidential Strategies

Defending our Nation against its enemies is the first and fundamental commitment of the Federal Government. Today, that task has changed dramatically. Enemies in the past needed great armies and great industrial capabilities to endanger America. Now, shadowy networks of individuals can bring great chaos and suffering to our shores for less than it costs to purchase a single tank. Terrorists are organized to penetrate open societies and to turn the power of modern technologies against us. To defeat this threat we must make use of every tool in our arsenal—military power, better homeland defenses, law enforcement, intelligence, and vigorous efforts to cut off terrorist financing. The war against terrorists of global reach is a global enterprise of uncertain duration. America will help nations that need our assistance in combating terror. And America will hold to account nations that are compromised by terror, including those who harbor terrorists—because the allies of terror are the enemies of civilization. The United States and countries cooperating with us must not allow the terrorists to develop new home bases. Together, we will seek to deny them sanctuary at every turn. —President George W. Bush⁵⁹

Presidential strategies define broad U.S. goals and objectives, providing direction and purpose to the executive branch departments and agencies. The GAO reviewed the 2002 and 2006 National Security Strategy, the 2002 National Strategy for Homeland Security, the 2003 and 2006 National Strategy to Combat Terrorism, and the 9/11 Commission Report in their study to assess the guidance provided to federal LEAs.⁶⁰ This chapter highlights those Presidential strategies and others that included a foreign law enforcement assistance framework.

⁵⁹ NSC, *The National Security Strategy of the United States of America* (Washington, DC: September 17, 2002), i-ii.

⁶⁰ GAO-07-697, 50.

National Security Strategy

The goal of our statecraft is to help create a world of democratic, well-governed states that can meet the needs of their citizens and conduct themselves responsibly in the international system. This is the best way to provide enduring security for the American people.⁶¹

The U.S. National Security Strategy (NSS) is the premier document (top of the hierarchy) and is founded on two major concepts. The first “is promoting freedom, justice, and human dignity – working to end tyranny, to promote effective democracies, and to extend prosperity through free and fair trade and wise development policies.” The second “is confronting the challenges of our time by leading a growing community of democracies.”⁶² The 2002 version of the NSS listed eight goals and described each in broad detail. The 2006 version of the NSS expanded on the 2002 version, added a ninth goal and described all in greater detail:

- Champion aspirations for human dignity;
- Strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends;
- Work with others to defuse regional conflicts;
- Prevent our enemies from threatening us, our allies, and our friends with weapons of mass destruction (WMD);
- Ignite a new era of global economic growth through free markets and free trade;
- Expand the circle of development by opening societies and building the infrastructure of democracy;
- Develop agendas for cooperative action with other main centers of global power;
- Transform America’s national security institutions to meet the challenges and opportunities of the 21st century;
- Engage the opportunities and confront the challenges of globalization.⁶³

⁶¹ NSC, *The National Security Strategy of the United States of America*, (Washington, DC: March 16, 2006), 1.

⁶² Ibid., ii.

⁶³ Ibid., 1.

The concept of strengthening the rule of law and building effective criminal justice institutions was continuously emphasized throughout the NSS. Those references that specifically addressed foreign law enforcement assistance are listed in table 4.1.

Law enforcement themes that were continued from the 2002 NSS included; working with our allies to deny terrorist sanctuary and funding,⁶⁴ and improving border controls (both domestically and overseas) that interdict illicit trade while moving legitimate traffic more efficiently.⁶⁵

The Administration also created two new offices in DOS to improve foreign assistance coordination and oversight. The Director of Foreign Assistance (DFA) who concurrently serves as the Administrator of USAID has authority over all DOS/USAID foreign assistance programs. The DFA is required to develop a 5-year coordinated foreign assistance strategy including annual country-specific plans.⁶⁶ The Office of the Coordinator for Reconstruction and Stabilization Office (S/CRS) plans, coordinates and integrates all USG agencies (including military), private and international organizations, and coalition efforts supporting stabilization and reconstruction.⁶⁷ The Administration is also working with Congress on foreign assistance reforms that will give the President increased flexibility “to train and equip our foreign partners in a more timely and effective manner.”⁶⁸

⁶⁴ NSS, 2002, 6.

⁶⁵ Ibid., 7.

⁶⁶ NSS, 2006, 33.

⁶⁷ Ibid., 16.

⁶⁸ NSS, 2006, 15.

Table 4.1. Foreign Law Enforcement Assistance (2006 National Security Strategy)

<i>Champion aspirations for human dignity.</i>
<ul style="list-style-type: none"> ➤ Help newly free nations build effective democracies that exercise effective sovereignty and maintain order within their own borders, protect independent and impartial systems of justice, punish crime, embrace the rule of law, and resist corruption. Rule of law must be reinforced by an independent judiciary, a professional legal establishment, and an honest and competent police force. ➤ Use foreign assistance to support the development of free and fair elections, rule of law, civil society, human rights, women's rights, free media, and religious freedom. ➤ Encourage foreign direct investment in and foreign assistance to countries where there is a commitment to the rule of law, fighting corruption, and democratic accountability. ➤ Implement free trade agreements (FTAs) that encourage countries to enhance the rule of law, fight corruption, and further democratic accountability.
<i>Strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends.</i>
<ul style="list-style-type: none"> ➤ Build Iraqi Security Forces and the capacity of local institutions to deliver services, advance the rule of law, and nurture civil society.
<i>Work with others to defuse regional conflicts.</i>
<ul style="list-style-type: none"> ➤ Post-Conflict Stabilization and Reconstruction success depends on the early establishment of strong local institutions such as effective police forces and a functioning justice and penal system. This governance capacity is critical to establishing the rule of law and a free market economy, which provide long-term stability and prosperity.
<i>Transform America's national security institutions to meet the challenges and opportunities of the 21st century.</i>
<ul style="list-style-type: none"> ➤ Improve our capability to plan for and respond to post-conflict and failed state situations. The Office of Reconstruction and Stabilization will integrate all relevant USG resources and assets in conducting reconstruction and stabilization operations. This effort must focus on building the security and law enforcement structures that are often the prerequisite for restoring order and ensuring success.
<i>Engage the opportunities and confront the challenges of globalization.</i>
<ul style="list-style-type: none"> ➤ Illicit trade, whether in drugs, human beings, or sex, that exploits the modern era's greater ease of transport and exchange. Such traffic corrodes social order; bolsters crime and corruption; undermines effective governance; facilitates the illicit transfer of WMD and advanced conventional weapons technology; and compromises traditional security and law enforcement.

Source: Data from U.S. National Security Council, *The National Security Strategy of the United States of America* (Washington, DC: March 16, 2006).

National Strategy for Combating Terrorism

No group or nation should mistake America's intentions: We will not rest until terrorist groups of global reach have been found, have been stopped, and have been defeated. –President George W. Bush⁶⁹

The 2006 National Strategy for Combating Terrorism (NSCT) updates the 2003 version and builds upon the 2006 NSS. This strategy focuses on four near-term objectives in support of four long-term objectives advancing freedom and democratic institutions:

Near-term objectives.

- Prevent attacks by terrorist networks;
- Deny weapons of mass destruction to rogue states and terrorist allies who seek to use them;
- Deny terrorists the support and sanctuary of rogue states;
- Deny terrorists control of any nation they would use as a base and launching pad for terror.⁷⁰

Long-term objectives.

- Establish and maintain international standards of accountability;
- Strengthen coalitions and partnerships;
- Enhance government architecture and interagency collaboration;
- Foster intellectual and human capital

The NSCT requires interagency cooperation and promotes working with foreign partners to find regional solutions.⁷¹ Building law enforcement capacity in foreign partners is a key element of the strategy (see table 4.2). In addition, this strategy is augmented by the National Strategy to Combat Terrorist Travel and the National Strategy for Maritime Security.⁷²

⁶⁹ NSC, *National Security for Combating Terrorism* (Washington, DC: February 2003), 1.

⁷⁰ NSC, *National Security for Combating Terrorism* (Washington, DC: September 2006), 1.

⁷¹ Ibid., 19-21.

⁷² Ibid., 13.

Table 4.2. Foreign Law Enforcement Assistance (2006 National Strategy for Combating Terrorism)

<p><i>Prevent attacks by terrorist networks.</i></p> <ul style="list-style-type: none"> ➤ <i>Deny terrorists entry to the United States and disrupt their travel internationally.</i> Improve all aspects of aviation security; promoting secure travel and identity documents; disrupting travel facilitation networks; improving border security and visa screening; building international capacity and improving international information exchange to secure travel and combat terrorist travel. The National Strategy to Combat Terrorist Travel and the National Strategy for Maritime Security guides these efforts. <p><i>Deny terrorists control of any nation they would use as a base and launching pad for terror.</i></p> <ul style="list-style-type: none"> ➤ <i>Eliminate physical safehavens.</i> Strengthen the capacity of foreign partners to reclaim full control of their territory through effective police, border, and other security forces as well as functioning systems of justice. Promote effective economic development to help ensure long-term stability and prosperity. Continue to work with foreign partners and international organizations to help prevent conflict and respond to state failure by building foreign capacity for peace operations, reconstruction, and stabilization so that countries in transition can reach a sustainable path to peace, democracy, and prosperity. Continue to partner with the international community to persuade states to meet their obligations to combat terrorism and deny safehaven under U.N. Security Council Resolution 1373. <p><i>Strengthen coalitions and partnerships.</i></p> <ul style="list-style-type: none"> ➤ Leverage international and domestic institutions/organizations to build capacity in foreign partners in all areas of counterterrorism activities, including strengthening their ability to conduct law enforcement, intelligence, and military counterterrorism operations. Train, equip and assist foreign partners across the globe to attack and defeat terrorists, deny them funding and freedom of movement, secure their critical infrastructures, and deny terrorists access to WMD and safehavens.

Source: Data from U.S. National Security Council, *National Strategy for Combating Terrorism* (Washington, DC: September, 2006).

UNSCR 1373 requires sovereign states “to suppress and prevent terrorist financing, improve their border controls, enhance information sharing and law enforcement cooperation, suppress the recruitment of terrorists, and deny them sanctuary.”⁷³

⁷³ NSCT, 2006, 19.

National Strategy to Combat Terrorist Travel

Constraining the mobility of terrorists is one of the most effective weapons in the War on Terror. Limiting their movements markedly diminishes terrorists' ability to attack the United States, our interests abroad, or our allies.⁷⁴

The National Strategy to Combat Terrorist Travel (NSCTT) was published by the National Counterterrorism Center (NCTC) several months prior to the 2006 version of the NSCT. The NSCTT consist of six strategic objectives supporting two pillars:

Enhance U.S. and foreign partner capabilities to constrain terrorist mobility overseas.

- Suppress terrorists' ability to cross international borders;
- Help partner nations build capacity to limit terrorist travel;
- Deny terrorists access to resources that facilitate travel.⁷⁵

Deny terrorists the ability to enter, exit, and travel within the U.S.

- Inhibit terrorists from crossing U.S. borders;
- Enhance U.S. Government capabilities to detect and constrain terrorist travel within the U.S.;
- Strengthen U.S. identity verification systems.⁷⁶

The strategy calls for foreign partnerships and capacity building “to strengthen laws designed to limit terrorist mobility; build political will to implement measures against terrorist travel; train investigators and prosecutors on terrorist travel tradecraft; and monitor results.” It also promotes coordination with the International Civil Aviation Organization (ICAO), International Police (INTERPOL), and the UN to enhance international travel document security (identification and screening systems) to reduce counterfeit, fraud and corruption.⁷⁷

⁷⁴ National Counterterrorism Center, *National Strategy to Combat Terrorist Travel* (Washington, DC: May 2, 2006), 1.

⁷⁵ NCTC, NSCTT, 2006, 2.

⁷⁶ Ibid., 3.

⁷⁷ Ibid., 5-6.

National Drug Control Strategy

For decades, the global illicit drug trade has constituted a significant transnational security threat. Its power and influence threaten democratic governments, undermine the rule of law, terrorize populations, impede economic development, and cause regional instability. Its operations, organizations, and networks fuel arms and human trafficking, money laundering, and violent multinational gangs. The illicit drug trade finances insurgencies and funds militant extremist enemies of the United States and its allies worldwide.⁷⁸

The State Department is currently tracking 42 foreign terrorist organizations.

Almost half of them (18) are linked to drug trafficking. Leveraging the same law enforcement tools used successfully against international drug cartels will enhance efforts to interdict terrorists and other transnational criminals. The National Drug Control Strategy (NDCS) was published in February 2007. It consists of three parts; education and community action; intervening and healing; and disrupting the market for illicit drugs. Disrupting the market for illicit drugs builds upon the NSS objective to “engage the opportunities and confront the challenges of globalization.”⁷⁹ NDCS law enforcement objectives include:

- Focusing U.S. action in areas where the illicit drug trade has converged or may converge with other transnational threats with severe implications for U.S. national security;
- Denying drug traffickers, narco-terrorists, and their criminal associates their illicit profits and access to the U.S. and international banking systems;
- Strengthening U.S. capabilities to identify and target the links between drug trafficking and other national security threats, and to anticipate future drug-related national security threats;
- Disrupting the flow of drugs to the United States and through other strategic areas by building new and stronger bilateral and multilateral partnerships.⁸⁰

⁷⁸ NSC, *National Drug Control Strategy* (Washington, DC: February 2007), 27.

⁷⁹ Ibid.

⁸⁰ Ibid.

National Strategy for Homeland Security

Many of the threats we face – pandemic diseases, the proliferation of weapons of mass destruction, terrorism, and natural disasters – also demand multinational effort and cooperation. To this end, we have strengthened our homeland security through foreign partnerships, and we are committed to expanding and increasing our layers of defense, which extend well beyond our borders, by seeking further cooperation with our international partners. –President George W. Bush⁸¹

The Office of Homeland Security was established 8 October 2001 and drafted the first National Strategy for Homeland Security (NSHS) published 16 July 2002.⁸² The 2002 NSHS consisted of three strategic objectives: prevent terrorist attacks within the United States; reduce America's vulnerability to terrorism; and minimize the damage and recover from attacks that do occur.⁸³ The 2007 version of the NSHS (published 5 October 2007) builds from the 2002 version incorporating the challenges and lessons learned from responding to transnational threats, man-made and natural disasters and the institutional growth of the Department of Homeland Security that was established 25 November 2002. The strategy contains four strategic objectives that were updated from the 2002 version:

- Prevent and disrupt terrorist attacks;
- Protect the American people, our critical infrastructure, and key resources;
- Respond to and recover from incidents that do occur; and
- Continue to strengthen the foundation to ensure our long-term success.

The NSHS complements the National Security Strategy (Mar 06) and the National Strategy for Combating Terrorism (Sep 06).⁸⁴

⁸¹ NSC, *National Strategy for Homeland Security* (Washington, DC: October 5, 2007), i.

⁸² NSC, *National Strategy for Homeland Security* (Washington, DC: July 16, 2002), i.

⁸³ Ibid., vii.

⁸⁴ NSHS, 2007, 1.

“Security at home ultimately is related to security abroad: as partners protect and defend their homelands, the security of our own Homeland increases.”⁸⁵ Foreign partnerships are a key and enduring element of the NSHS. “The United States will continue to develop and strengthen foreign partnerships and the homeland security capabilities of our friends and allies.”⁸⁶ In cooperation with foreign partners, the U.S. is strengthening its screening of people and cargo at foreign ports of embarkation prior to arriving at U.S. domestic air/sea ports.⁸⁷ In addition, the NSHS recommends that Congress restructure its oversight committee process in order to provide clearer guidance, consistent priorities and the authority and appropriations to accomplish national security objectives. It also recommends that Congress adopt a risk-based funding approach to best prioritize use of limited resources.⁸⁸

Summary

Strengthening the criminal justice institutions of our foreign partners is a reoccurring objective in our national security strategies. Enabling regional partnerships responsible for transnational threat management are essential to long-term security. Building law enforcement capacity overseas is dependent on the political will of our foreign partners to combat transnational threats. The U.S. is working with “the United

⁸⁵ NSHS, 2007, 5.

⁸⁶ Ibid., 5.

⁸⁷ Ibid.

⁸⁸ Ibid., 51.

Nations and the G-8's Counterterrorism Action Group (CTAG), to coordinate assistance efforts that maximize resources and enhance capacity to those who need it most.”⁸⁹

The U.S. national strategies sufficiently provide broad goals and objectives to assist foreign partners, strengthen criminal justice institutions, and build capacity to facilitate international law enforcement and intelligence efforts against organized crime and terrorists' networks. GAO's assessment generally found the national strategies lacking in assigning responsibilities to specific LEAs. This is attributed to not fully understanding the legislative authorities and responsibilities that define the federal LEAs (see page 70 for an expanded evaluation). Chapter five examines the departmental strategies and their law enforcement organizations.

⁸⁹ 9/11 Five Years Later: Successes and Challenges (Washington, DC: September 2006), 21.

Chapter 5

Departmental Strategies & Execution

America now faces a choice between the path of fear and the path of confidence. The path of fear – isolationism and protectionism, retreat and retrenchment – appeals to those who find our challenges too great and fail to see our opportunities. Yet history teaches that every time American leaders have taken this path, the challenges have only increased and the missed opportunities have left future generations less secure. This Administration has chosen the path of confidence. We choose leadership over isolationism, and the pursuit of free and fair trade and open markets over protectionism. We choose to deal with challenges now rather than leaving them for future generations. We fight our enemies abroad instead of waiting for them to arrive in our country. We seek to shape the world, not merely be shaped by it; to influence events for the better instead of being at their mercy. –President George W. Bush⁹⁰

This chapter explores the foreign law enforcement assistance strategies of the Departments' of Justice, Homeland Security and State and provides an overview of their component organizations responsible for overseas program execution. In addition to the eight federal LEAs (FBI, DEA, ATF, USMS, CBP, ICE, USSS and DS) that were included in the GAO study, this chapter includes DOJ's Criminal Division and U.S. National Central Bureau (USNCB); DHS's Federal Law Enforcement Training Center (FLETC) and the U.S. Coast Guard (USCG); and DOS's Bureau for International Narcotics and Law Enforcement Affairs (INL). The majority of funding that supports overseas law enforcement capacity building programs (counter narcotics, law enforcement, and antiterrorism) is managed by State's DS and INL bureaus.

⁹⁰ NSC, NSS, 2006, ii.

Department of Justice (DOJ)

The Department remains committed to further developing its capacity to investigate terrorism and to identify, disrupt, and dismantle terrorist cells, plots, and financing within the United States and abroad. We cannot accomplish this alone. Therefore, the Department continues to strengthen partnerships with other federal agencies and State, local, and foreign governments. –Attorney General Michael B. Mukasey, November 13, 2007⁹¹

DOJ publically released its updated Strategic Plan for FYs 2007-2012 in July 2007. The plan was approved by the Office of Management and Budget and sent to Congress for review and approval in April 2007.⁹² The 126 page report provides the framework for the department's strategic planning, performance and budgeting process. The plan consists of three strategic goals supported by 19 strategic objectives. Each strategic objective has nested strategies that support its attainment. DOJ's current goals and objectives are listed in table 5.1. Those strategic objectives that specify foreign law enforcement assistance (both operational and capacity building) are highlighted.

DOJ's annual Performance and Accountability Report (PAR) was released in November 2007. This 280 page document consolidates annual management, performance, and financial legislative reporting requirements.⁹³ Table 5.1 also reflects the percentage of DOJ's net costs programmed to support each strategic goal. Six of DOJ's 19 strategic objectives include strategies that require foreign law enforcement assistance. Table 5.2 lists those strategies along with DOJ's lead agency/office

⁹¹ DOJ, *FY 2007 Performance and Accountability Report* (Washington, DC: November 13, 2007).

⁹² Ibid., I-10.

⁹³ Ibid., i-iv.

responsible for coordinating the efforts. DOJ's Criminal Division is responsible for leading almost 80% of the overseas law enforcement capacity building efforts.

Table 5.1. DOJ Strategic Goals and Objectives (FY 2007-2012)

Strategic Goal		Strategic Objectives
I	Prevent Terrorism and Promote the Nation's Security <i>14% of DOJ's net costs support this goal (2007 PAR, II-3)</i>	<ul style="list-style-type: none"> ①.1 Prevent, disrupt, and defeat terrorist operations before they occur ①.2 Strengthen partnerships to prevent, deter, and respond to terrorist incidents 1.3 Prosecute those who have committed, or intend to commit, terrorist acts in the United States 1.4 Combat espionage against the United States
II	Prevent Crime, Enforce Federal Laws, and Represent the Rights and Interests of the American People <i>49% of DOJ's net costs support this goal (2007 PAR, II-6)</i>	<ul style="list-style-type: none"> 2.1 Strengthen partnerships for safer communities and enhance the Nation's capacity to prevent, solve, and control crime ②.2 Reduce the threat, incidence, and prevalence of violent crime ②.3 Prevent, suppress, and intervene in crimes against children ②.4 Reduce the threat, trafficking, use, and related violence of illegal drugs ②.5 Combat public and corporate corruption, fraud, economic crime, and cybercrime 2.6 Uphold the civil and Constitutional rights of all Americans 2.7 Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction 2.8 Protect the integrity and ensure the effective operation of the Nation's bankruptcy system
III	Ensure the Fair and Efficient Administration of Justice <i>37% of DOJ's net costs support this goal (2007 PAR, II-26)</i>	<ul style="list-style-type: none"> 3.1 Protect judges, witnesses, and other participants in federal proceedings, and ensure the appearance of criminal defendants for judicial proceedings or confinement 3.2 Ensure the apprehension of fugitives from justice 3.3 Provide for the safe, secure, and humane confinement of detained persons awaiting trial and/or sentencing and those in the custody of the Federal Prison System 3.4 Provide services and programs to facilitate inmates' successful reintegration into society, consistent with community expectations and standards 3.5 Adjudicate all immigration cases promptly and impartially in accordance with due process 3.6 Promote and strengthen innovative strategies in the administration of State and local justice systems 3.7 Uphold the rights and improve services to America's crime victims

Source: Data from U.S. Department of Justice, *FY 2007 Performance and Accountability Report* (Washington, DC: November 13, 2007).

Table 5.2. DOJ Strategies that include Foreign Law Enforcement Assistance

Strategic Objectives		Strategies to Achieve the Objective (Foreign Law Enforcement Assistance)	DOJ Lead
1.1	Prevent, disrupt, and defeat terrorist operations before they occur	Improve host-nation law enforcement agencies that are on the front lines of terrorism in an effort to control indigenous crime and reduce the proliferation of related transnational crime	Criminal Division- International Criminal Investigative Training Assistance Program (ICITAP)
		Prepare foreign counterparts to cooperate more fully and effectively with the United States in combating terrorism and related transnational crime	Criminal Div- Office of Overseas Prosecutorial Development Assistance and Trng (OPDAT)
		Assist foreign partners to ensure international judicial cooperation	Criminal Div- Office of International Affairs (OIA)
1.2	Strengthen partnerships to prevent, deter, and respond to terrorist incidents	Cultivate new partnerships to further the organization's mission to prevent transnational crime and terrorism	Criminal Div- ICITAP
		Improve the skills of foreign prosecutors, investigators, and judges; encourage legislative and justice sector reform in countries with inadequate laws; and promote the rule of law and regard for human rights	Criminal Div- OPDAT
		Train domestic security forces in Iraq	Criminal Div- ICITAP FBI - Legal Attaché (LEGAT)
		Support the Legal Attaché Program mission - Use our international partnerships to negotiate and enter into extradition treaties	FBI - LEGAT Criminal Div - OIA
		Engage the Bureau of Alcohol, Tobacco, Firearms, and Explosives in strong partnerships with the law enforcement community to capitalize on its expertise and combat terrorism	ATF- International Law Enforcement Academy (ILEA),
		Use the Foreign Deployed Advisory Support Teams Program to implement counternarcotics strategies and deny drug related terrorist activities	DEA- FAST Program
2.2	Reduce the threat, incidence, and prevalence of violent crime	Prevent violent crime in the United States by reducing international violent crime	Criminal Div- ICITAP/OPDAT National Central Bureau (USNCB) - INTERPOL
2.3	Prevent, suppress, and intervene in crimes against children	Increase the capacity of foreign law enforcement to effectively prevent, suppress, and intervene in crimes against children	Criminal Div- ICITAP/OPDAT
2.4	Reduce the threat, trafficking, use, and related violence of illegal drugs	Reduce the flow of illicit drugs, money, and chemicals between the source zones and the United States	DEA- Spec Ops Division (SOD) Criminal Div- Orgnz. Crime Drug Enf. Task Force (OCDETF)
		Develop international assistance programs that effectively reduce the threat, trafficking, use, and related violence of illegal drugs	Criminal Div- ICITAP/OPDAT
2.5	Combat public and corporate corruption, fraud, economic crime, and cybercrime	Deliver programs designed to enhance the ability of foreign governments to contain or disrupt white collar crimes before they pass through their borders to threaten the United States	Criminal Div- OPDAT

Source: Data from U.S. Department of Justice, *FY 2007-2012 Strategic Plan* (Washington, DC: July 2007).

Criminal Division

The Criminal Division has four offices that are responsible for coordinating 12 of the 15 overseas law enforcement assistance strategies. The International Criminal Investigative Training Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) are responsible for leading or co-leading eight of the 12 strategies. The Office of International Affairs (OIA) and the Executive Office of the Organized Crime Drug Enforcement Task Forces (OCDETF) lead the others. The overarching goal of ICITAP and OPDAT is to enable host nation law enforcement agencies to effectively control domestic crime thus reducing “the proliferation of related transnational crime.”⁹⁴

The ICITAP utilizes DOS/USAID funds to provide training and technical assistance to foreign law enforcement agencies transitioning to democratic policing. Created in 1986 (at the request of DOS) to facilitate training of Latin American police forces; ICITAP focuses on developing self- sustaining civilian-based law enforcement institutions in emerging and struggling democracies. Assistance is tailored to country or regional specific needs and varies from technical law enforcement support (i.e. investigations, forensics) to developing police institutional functions (i.e. management, administration, recruiting, training, equipping).⁹⁵ “ICITAP’s training strategies are the nexus to United States Government and non-governmental organizations (NGOs), expanding the training and technical resources provided to foreign law enforcement and

⁹⁴ DOJ, *FY 2007-2012 Strategic Plan* (Washington, DC: July 2007), 54.

⁹⁵ DOJ, “International Criminal Investigative Training Assistance Program (ICITAP),” <http://www.usdoj.gov/criminal/icitap/> (accessed December 2, 2007).

other foreign assistance programs.”⁹⁶ ICITAP’s assistance programs “effectively strengthen foreign law enforcement institutions to prevent, disrupt, and defeat money laundering, terrorist financing, and terrorist acts.”⁹⁷

ICITAP, in partnership with its sister organization OPDAT, currently has projects in more than 50 countries including Iraq with the Civilian Police Assistance Training Team (CPATT). These projects include programs to combat terrorism, organized crime, narcotics and human trafficking, international gangs, money laundering and terrorist financing (abuse of charities and bulk cash smuggling).⁹⁸ OPDAT’s mission is to provide assistance to “foreign prosecutors, investigators, and judges; encourage legislative and justice sector reform in countries with inadequate laws; and promote the rule of law and regard for human rights.”⁹⁹ OPDAT programs are funded by DOS’s International Narcotics and Law Enforcement Bureau (INL) and performed by federal prosecutors on loan from other DOJ Divisions. Resident Legal Advisors (RLA) serve for a least a year in the host country and Intermittent Legal Advisors (ILA) serve shorter periods depending on the project.¹⁰⁰

⁹⁶ DOJ, *FY 2007-2012 Strategic Plan*, 23.

⁹⁷ Ibid., 19.

⁹⁸ Ibid., 23-49.

⁹⁹ Ibid., 19.

¹⁰⁰ DOJ, “Overseas Prosecutorial Development, Assistance and Training (OPDAT) Fiscal Year 2005- 2006 Strategic Plan,” <http://www.usdoj.gov/criminal/opdat/strategic-plan/strategic-plan.html> (accessed December 2, 2007).

The Office of International Affairs (OIA) supports key embassies with DOJ Attaché positions. Justice Attachés serve as the overseas coordination element for U.S. law enforcement, prosecutors, and judges seeking operational assistance from their foreign counterparts. The assistance is normally in the form of extradition and evidence requests. Justice Attachés also facilitate the formulation and execution of bilateral, multilateral and mutual legal assistance treaties (MLATs) promoting greater international law enforcement cooperation.¹⁰¹

The Organized Crime Drug Enforcement Task Force (OCDETF) is a national interagency program that combines the resources and efforts of federal, state and local law enforcement agencies to investigate and prosecute major drug trafficking and other money laundering criminal organizations. DOJ's U.S. Attorneys, Criminal and Tax Divisions; along with the federal law enforcement agencies from Justice (FBI, DEA, ATF, and USMS), Homeland Security (ICE, CBP, USCG), and Treasury (IRS) Departments form the nucleus of the nine regionally oriented task forces.¹⁰² Established in 1982, the OCDETF is at the center of the nation's drug reduction strategy. OCDETFs identify and link the components (supply, transportation, distribution, and financing) of major criminal organizations disrupting and dismantling them. The OCDETF Fusion Center (OFC) integrates and analyzes law enforcement, financial and intelligence data supporting multi-jurisdiction investigations and operations.¹⁰³ The OCDETF program

¹⁰¹ DOJ, *FY 2007-2012 Strategic Plan*, 20-23.

¹⁰² U.S. Attorney's Office, "Organized Crime Drug Enforcement Task Force (OCDETF)," <http://www.usdoj.gov/usao/law/programs/ocdetc.html> (accessed December 6, 2007).

¹⁰³ DEA, "Organized Crime Drug Enforcement Task Force (OCDETF)." <http://www.usdoj.gov/dea/programs/ocdetc.htm> (accessed December 6, 2007).

also manages the Attorney General's Consolidated Priority Organization Targets (CPOT) list. "The List identifies the most significant international drug trafficking and money laundering organizations and those primarily responsible for the Nation's drug supply."¹⁰⁴

U.S. National Central Bureau (USNCB)

The USNCB is separate DOJ agency that serves as the principal liaison to the International Criminal Police (INTERPOL) organization. USNB provides information sharing between international and U.S. law enforcement agencies. They provide U.S. agencies with access to INTERPOL's criminal databases and process international requests for law enforcement assistance from U.S. agencies.¹⁰⁵

Federal Bureau of Investigation (FBI)

The globalization of crime—whether terrorism, international trafficking of drugs, contraband, and people, or cyber crime—absolutely requires us to integrate law enforcement efforts around the world. And that means having our agents working directly with their counterparts overseas on cases of mutual interest—not only to solve crimes that have been committed, but to prevent crimes and acts of terror by sharing information in real time. —FBI Director Robert S. Mueller, III¹⁰⁶

The FBI centrally manages worldwide investigative and intelligence operations through 56 domestic field offices and 45 overseas Legal Attaché offices located in U.S. Embassies. Two key enabling functions outlined in the FBI's 2004-2009 Strategic Plan,

¹⁰³ DOJ, *FY 2007 Performance and Accountability Report*, II-12.

¹⁰⁵ DOJ, *FY 2007-2012 Strategic Plan*, 41.

¹⁰⁶ FBI, "Legal Attaché Offices," <http://www.fbi.gov/contact/legat/legat.htm> (accessed December 8, 2007).

are the expansion of collaborative partnerships and technological improvements.¹⁰⁷ The FBI provides overseas operational assistance to reduce the impacts that transnational crime and drug trafficking have on the U.S. The strategies call for enhanced partnering between domestic and foreign law enforcement agencies building alliances to target and dismantle transnational criminal enterprises.¹⁰⁸ The FBI is increasing its level of investigative, intelligence, information, forensics and training support to international partners¹⁰⁹ and its capacity to provide expertise (rapid deployment teams) on short notice to assist foreign partners investigating terrorist incidents.¹¹⁰ The Legal Attaché office serves as the FBI's coordination element between domestic and international law enforcement agencies.

The FBI's Office of International Operations provides oversight to the Legal Attaché (Legat) program. Legat offices are currently located in 70 key U.S Embassies overseas and provide regional coverage to approximately 200 countries. Legat offices serve as the primary liaison to host- nation law enforcement agencies. They provide investigative assistance and coordinate technical or training support as needed to increase host nation capacity and effectiveness. They also assist domestic LEAs with international criminal investigations.¹¹¹ The Embassy Bagdad Legat has been extensively engaged with coordinating assistance and training for the Iraqi Police Service

¹⁰⁷ FBI, *Strategic Plan 2004-2009*, (Washington, DC: July 21, 2004), 8-9.

¹⁰⁸ Ibid., 51-55.

¹⁰⁹ Ibid., 68-71.

¹¹⁰ Ibid., 31.

¹¹¹ FBI, Legat, <http://www.fbi.gov/contact/legat/legat.htm> (assessed December 8, 2007).

(IPS) to include the establishment of joint Iraqi-U.S. Task Forces to investigate major crimes.¹¹²

The FBI is working to expand the Legat program to enhance international law enforcement capacity, partnership and cooperation.¹¹³

The Criminal Justice Information Services (CJIS) Division (located in Clarksburg, WV) manages the Integrated Automated Fingerprint Identifications System (IAFIS) and the National Crime Information Center (NCIC). IAFIS provides automated fingerprint processing and analysis; and NCIC provides automated access to nation-wide law enforcement and criminal records data.¹¹⁴ The FBI is also expanding its Combined DNA Index System (CODIS) to increase our foreign partners' forensic capabilities.¹¹⁵ Working closely with the military in Iraq and Afghanistan, CJIS has cataloged the biometrics on 10,000 terrorist suspects and detainees from more than 16 countries. CJIS also provides training to foreign LEAs on how to take fingerprints that can be used reliably by the international community.¹¹⁶

The FBI has been training foreign law enforcement officers since 1935. In addition to resident courses at the FBI National Academy, foreign police executives have the opportunity to attend in-country seminars. The FBI also administers several regional programs to include; the Budapest, Hungary and Bangkok, Thailand regional

¹¹² FBI, *Strategic Plan 2004-2009*, (Washington, DC: July 21, 2004), 23.

¹¹³ Ibid., 26.

¹¹⁴ Ibid., 71.

¹¹⁵ Ibid., 106-107.

¹¹⁶ Ibid., 126.

International Law Enforcement Academies (ILEA);¹¹⁷ and the Mexican/American Law Enforcement Training (MALET) initiative and the Pacific Rim Training Initiative (PTI). The FBI's International Training Section (located at Quantico, VA) is responsible for all interagency, embassy and host-nation coordination of FBI international training programs.¹¹⁸

Drug Enforcement Agency (DEA)

The DEA leads U.S. drug enforcement efforts. They published a five-year plan for FY 2001-2006 that addressed four strategic focus areas; International Targets, National/ Regional Targets, Local Initiatives, Management and Infrastructure. DEA's goal is to reduce illegal drug activity by disrupting and dismantling major drug trafficking organizations.¹¹⁹ DEA provides foreign governments with counter narcotics training and assistance to establish counter narcotics programs, organizations and judicial reforms.

“The DEA International Training Section (TRI) has been conducting international counter-narcotics training since 1969.”¹²⁰ DEA provides instruction at the international law enforcement academies and utilizes mobile training teams to conduct in-country and regional training programs. Resident training is also provided at the DEA Academy in

¹¹⁷ FBI, *Strategic Plan 2004-2009*, (Washington, DC: July 21, 2004), 72.

¹¹⁸ FBI, “The FBI Academy – International Training Program,” <http://www.fbi.gov/hq/td/academy/itp/itp.htm> (assessed December 9, 2007).

¹¹⁹ DEA, “DEA Congressional Testimony – March 20, 2002,” <http://www.usdoj.gov/dea/pubs/cngrtest/ct032002.html> (accessed December 10, 2007).

¹²⁰ DEA, “International Training,” <http://www.usdoj.gov/dea/programs/training/part18.html> (accessed December 10, 2007).

Quantico, Virginia for Sensitive Investigative Unit (SIU) personnel. DEA's training programs have enhanced foreign law enforcement capacity and increased regional counter drug cooperation.¹²¹

DEA established the Foreign Deployed Advisory Support Team (FAST) program in 2005 to support counternarcotics efforts in Afghanistan. The FAST is an investigative and intelligence support team that advises, trains, and mentors host-nation counterparts. DEA has five teams in Afghanistan working with the Afghan National Interdiction Unit of the Counter Narcotics Police. The teams also assist the U.S. military with information obtained from DEA human intelligence sources. DEA has requested funding to expand the program into Latin America.¹²² DEA's strategy of preventing international drug flow requires capable and dependable regional partners. DEA is committed to building overseas law enforcement capacity and expanding bilateral investigations.¹²³

Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)

ATF regulates the U.S. firearms and explosives industries, conducts investigations and assist other law enforcement agencies. ATF's Strategic Plan (FY 2004-2009) contains three strategic goals: prevent violent crime involving firearms; resolve and prevent explosives and fire related crimes; and prevent illegal domestic and international trafficking of alcohol and tobacco products. ATF provides domestic and foreign law enforcement agencies with technical assistance, forensics support, specialized training,

¹²¹ Ibid.

¹²² DOJ, *FY 2007-2012 Strategic Plan*, 25.

¹²³ DOJ, *FY 2007-2012 Strategic Plan*, 47.

and access to national firearms and explosives information databases.¹²⁴ The “ATF conducts advanced firearms and explosives training for Federal, U.S. military, state, local, and international students on topics that include the safe destruction of explosives, on-scene analytical and advanced post-blast analysis, and firearms trafficking.”¹²⁵ ATF provides training to students from over 50 countries at the international law enforcement academies.¹²⁶

U.S. Marshals Service (USMS)

The USMS was established in 1789 (oldest federal LEA) to protect the federal judiciary, apprehend federal fugitives, protect federal witnesses, “transport federal prisoners and seize property acquired by criminals through illegal activities.”¹²⁷ The USMS manages DOJ’s Asset Forfeiture Program (disposing of seized property and reinvesting the proceeds in law enforcement). They have overseas field offices in Jamaica, Mexico and Dominican Republic; and liaison offices with Canada, Interpol, DOJ’s OIA, and DOS’s Bureau of Diplomatic Security (DS). The USMS is the lead agency “responsible for locating and extraditing American fugitives, who flee to foreign countries;”¹²⁸ and foreign criminals believed to be in the U.S. The USMS provides

¹²⁴ ATF, *Strategic Plan: FY 2004-2009*, (Washington, DC: September 20, 2007), 1-10.

¹²⁵ DOJ, *FY 2007-2012 Strategic Plan*, 25.

¹²⁶ Ibid.

¹²⁷ USMS, “U.S. Marshal’s Fact Sheet,” <http://www.usmarshals.gov/duties/factsheets/general.pdf> (accessed December 10, 2007).

¹²⁸ Ibid.

overseas law enforcement agencies training “in fugitive investigation techniques and office survival.”¹²⁹

DOJ Summary

DOJ has 106,000 employees working in 40 separate component organizations.¹³⁰ “The United States counterdrug, CT, and immigration enforcement missions are interrelated due to criminal activities involving drug trafficking, alien smuggling, and terrorism.”¹³¹ DOJ’s Criminal Division, National Central Bureau, and four federal LEAs (FBI, DEA, ATF, and USMS) are all committed to partnering with overseas law enforcement agencies, conducting joint investigations, operations, training and building host-nation capacity. DOJ has been supporting Operation Iraqi Freedom (OIF) since the beginning and currently has over 200 employees and contractors’ deployed working alongside DOD and Coalition partners to strengthen Iraqi criminal justice institutions. In March 2007, Embassy Bagdad’s Chief of Mission appointed Assistant U.S. Attorney James Santelle as the Rule of Law Coordinator consolidating approximately 300 rule of law and law enforcement personnel under Chief of Mission authority. See table 5.3 for DOJ’s efforts in Iraq.¹³²

¹²⁹ USMS, “International Investigations,” <http://www.usdoj.gov/marshals/investigations/international/>, (accessed December 10, 2007).

¹³⁰ DOJ, *FY 2007-2012 Strategic Plan*, ii-iii.

¹³¹ DOJ, *FY 2007-2012 Strategic Plan*, 48.

¹³² USMS, “DOJ Press Release - August 11, 2007,” <http://www.usdoj.gov/marshals/news/chron/2007/081107.htm> (accessed December 10, 2007).

Table 5.3. DOJ's Efforts in Iraq

DOJ Organization	Activity
Justice Attaché	(Judge Eric Levison) Assist the Rule of Law Coordinator in achieving U.S. Goals.
Major Crimes Task Force (MCTF)	(FBI, ATF, DEA, USMS) Provides technical assistance to Iraqi Criminal Investigators.
FBI's Legal Attaché	Provides law enforcement liaison and international assistance / FBI Counterterrorism unit provides specialized training to Iraqi Police.
Regime Crimes Liaison Office (RCLO)	(FBI, DEA, ATF, USMS) Provides support to the Iraqi High Tribunal (IHT); IHT has jurisdiction over violent crimes against humanity.
ATF	Provides post-blast investigation and explosive/IED training to Iraqi Police; provides investigative and administrative support to RCLO; and supports DOD's Combined Explosive Exploitation Cells.
USMS	Provides court and witness security for Iraqi Judges; training assistance to Iraqi Police on courthouse security and protective services; and implemented a witness security program.
Overseas Prosecutorial Development Assistance and Training (OPDAT)	Provides training and assistance to Iraqi Judges, Prosecutors and Police. Resident Legal Advisors (RLAs) support the Justice Attaché, Provincial Reconstruction Teams (PRT) and the Central Criminal Court of Iraq (CCCI).
International Criminal Investigative Training Assistance Program (ICITAP)	Serves as a component of DOD's Civilian Police Assistance Training Team (CPATT) training, manning, and equipping the Iraqi Police; advises the Baghdad and Irbil Police Colleges and 10 other regional training facilities throughout Iraq; provides assistance to the Iraq Commission on Public Integrity (CPI) - trained the Anti-Corruption Unit (ACU) and the Special Investigative Unit (SNU); and provides training assistance to the Iraqi Corrections Service (ICS).

Source: Data from DOJ, "DOJ Press Release - August 11, 2007," <http://www.usdoj.gov/marshals/news/chron/2007/081107.htm> (accessed December 10, 2007).

Department of Homeland Security (DHS)

International cooperation is a key thread in the DHS 2004 Strategic Plan. Three of DHS's seven strategic goals and seven objectives included foreign law enforcement operational, training and capacity building assistance. The objectives called for increased law enforcement information and intelligence sharing; enhanced capacity to screen U.S. bound passengers and cargo; law enforcement training; and joint investigations to counter terrorism and financial crimes (see table 5.4).¹³³

¹³³ DHS, *Strategic Plan: Securing Our Homeland* (Washington, DC: February 23, 2004), 12-22.

Table 5.4. DHS Objectives that included Foreign Law Enforcement Assistance

DHS Strategic Goals	Objectives
1. Awareness: Identify and understand threats, assess vulnerabilities, determine potential impacts and disseminate timely information to our homeland security partners and the American public.	<p>1.3 Develop timely, actionable and valuable information based on intelligence analysis and vulnerability assessments (<i>includes coordination with international partners</i>).</p> <p>1.4 Ensure quick and accurate dissemination of relevant intelligence information to homeland security partners, including the public (<i>includes international partners</i>).</p>
2. Prevention: Detect, deter and mitigate threats to our homeland.	<p>2.1 Secure our borders against terrorists, means of terrorism, illegal drugs and other illegal activity (<i>extending our physical borders by strengthening our international partners' capacity to "interdict terrorist activities by targeting unlawful migration of people, cargo, drugs and other contraband, while facilitating legitimate migration and commerce"</i>).</p> <p>2.4 Ensure national and international policy, law enforcement and other actions to prepare for and prevent terrorism are coordinated (<i>includes increased law enforcement information sharing and international training</i>).</p> <p>2.5 Strengthen the security of the Nation's transportation systems (<i>includes international partners</i>).</p>
3. Protection: Safeguard our people and their freedoms, critical infrastructure, property and the economy of our nation from acts of terrorism, natural disasters, or other emergencies.	<p>3.1 Protect the public from acts of terrorism and other illegal activities (<i>includes conducting international investigations to prevent terrorist groups from obtaining sensitive weapons</i>).</p> <p>3.3 Protect against financial and electronic crimes, counterfeit currency, illegal bulk currency movement and identity theft (<i>includes an overseas investigative presence to prevent counterfeiting and other financial crimes</i>).</p>

Source: Data from U.S. Department of Homeland Security, *Strategic Plan: Securing Our Homeland* (Washington, DC: February 23, 2004).

In 2007, DHS reoriented its goals and objectives as published in the department's FY2007 Annual Financial Report. The plan consists of five goals and ten objectives;

Goals

1. Protect our Nation from Dangerous People;
2. Protect our Nation from Dangerous Goods;
3. Protect Critical Infrastructure;
4. Build a Nimble, Effective Emergency Response System and a Culture of Preparedness;
5. Strengthen and Unify DHS Operations and Management.

Goals one and two included overseas law enforcement cooperation and assistance (although not specifically listed as an objective). Objectives included; controlling the nation's borders and points of entry; improved immigration services; enhanced screening of travelers and transportation workers; maritime migrant interdiction; and screening of inbound cargo at overseas and domestic ports through the secure freight and container security initiatives. Primary DHS agencies involved include CPB, ICE, and the USCG.¹³⁴

Federal Law Enforcement Training Center (FLETC)

FLETC was established in 1970 and provides basic, advanced and specialized training to federal, state, tribal, local, campus, and international law enforcement agencies. FLETC's International Training and Technical Assistance Division (ITT) develops and delivers training to foreign law enforcement agencies increasing their capacity to confront transnational crimes. ITT works with DOS and other federal agencies to coordinate training and assistance. FLETC provides program and instructor support to the international law enforcement academies and currently provides the Director for ILEA San Salvador and ILEA Gaborone.¹³⁵

U.S. Customs and Border Protection (CBP)

CBP protects the nation's borders and ports of entry from the unlawful entry of personnel and cargo. CBP's 2005-2011 Strategic Plan consist of six strategic goals and

¹³⁴ DHS, *FY 2007 Annual Financial Report* (Washington, DC: November 15, 2007), 10-11.

¹³⁵ DHS, FLETC, "FLETC International," <http://www.fletc.gov/about-fletc/locations/fletc-international.html> (accessed December 30, 2007).

26 objectives. Four of the objectives (see table 5.5) involve working with foreign law enforcement agencies, expanding the operational reach of CBP beyond U.S. borders to screen passengers and commerce at their points of origin. CBP provides technical assistance and training to overseas law enforcement agencies to enhance international cooperation, facilitate interdiction efforts and enforce trade agreements and security standards. CBP leads the international community in the implementation of global trade security standards.¹³⁶

Table 5.5. CBP Objectives that included Foreign Law Enforcement Assistance

CBP Strategic Goals	Objectives
1. Prevent terrorists and terrorist weapons, including weapons of mass destruction and weapons of mass effect, from entering the United States at the ports of entry.	<p>1.1 Improve the collection, use, analysis and dissemination of intelligence to target, identify and prevent potential terrorists and terrorist weapons from entering the United States.</p> <p>1.4 Push the nation's zone of security outward beyond its physical borders through partnerships and extended border initiatives to deter and combat the threat of terrorism.</p>
4. Facilitate the more efficient movement of legitimate cargo and people.	4.3 Promote industry and foreign government partnerships, by engaging foreign governments, the trade community and others in the supply chain in cooperative relationships, by ensuring that CBP matters are satisfactorily addressed in trade agreements and by guaranteeing that trading partners adhere to internationally accepted Customs standards.
5. Contribute to a safer America by prohibiting the introduction of illicit contraband, such as illegal drugs, counterfeit goods and other harmful materials and organisms, into the United States.	5.3 Cooperate with other agencies, foreign governments and industry partners to administer and enforce the laws of the United States.

Source: Data from U.S. Customs and Border Protection, *Protecting America: U.S. Customs and Border Protection 2005–2010 Strategic Plan* (Washington, DC: May 2005), 18-41.

Containerized shipping is utilized for approximately 90 percent of the world's manufactured goods. Over 11 million containers arrive at U.S. seaports annually. CPB's

¹³⁶ CBP, *Protecting America: U.S. Customs and Border Protection 2005–2010 Strategic Plan* (Washington, DC: May 2005), 18-41.

Container Security Initiative (CSI) prescreens selected cargo containers at foreign ports prior to being loaded on U.S. bound vessels. CBP is expanding the CSI program that is currently operating at 58 overseas ports screening 86 percent of inbound containers. The Secure Freight Initiative (SFI) was launched in 2007 (in response to the 2006 SAFE Port Act) to add radiation detection and non-intrusive inspection scanning capability. SFI is currently operating at seven overseas ports scanning 100 percent of the U.S. bound containers, sending container images and radiological data to CPB's National Targeting Center. CBP's Customs-Trade Partnership against Terrorism (C-TPAT) program partners with industry to enhance supply chain security. C-TPAT members incorporate and enforce security standards in return for expedited shipping clearance.¹³⁷

U.S. Immigration and Customs Enforcement (ICE)

ICE enforces immigration and customs laws, conducts investigations and protects federal facilities. As the largest investigative agency in DHS, they are responsible for “identifying criminal activities and eliminating vulnerabilities that pose a threat to our nation’s borders, as well as enforcing economic, transportation and infrastructure security.”¹³⁸ ICE’s operational divisions include Investigations; Detention and Removal Operations (illegal aliens); Federal Protective Service (security of federal buildings) and Intelligence.¹³⁹ ICE’s Office of International Affairs (OIA) provides oversight of

¹³⁷ CBP, *FY 2007 Performance and Accountability Report*, (Washington, DC: November 13, 2007), 15-24.

¹³⁸ ICE, “FY 2008 Fact Sheet – August 7, 2006,” <http://www.ice.gov/doclib/pi/news/factsheets/fy2008factsheet.pdf> (accessed December 30, 2007).

¹³⁹ Ibid.

international operations including “investigations of immigration and customs violations, management of the Visa Security Program and the International Visitor’s Program, representation with international organizations, conducting international training and guiding repatriation.”¹⁴⁰

ICE Attachés partner with host nation law enforcement conducting joint investigations to counter fraud (visa and identity); smuggling operations including bulk cash, illegal arms, and human trafficking. ICE provides training at the ILEAs and hosts training events in the states. In 2006, ICE conducted training on “financial crimes and bulk cash smuggling in 13 countries, including Iraq, and export enforcement in 14 countries.”¹⁴¹ ICE participates in the interagency Terrorist Finance Working Group (TFWG) and developed training programs to counter cash couriers that support terrorist and organized crime.¹⁴²

U.S. Secret Service (USSS)

The USSS provides protection and investigative services. They provide protection to the President, Vice President and their families; visiting dignitaries; the White House, foreign missions and other buildings in Washington D.C.; and oversight to designated National Special Security Events. The USSS also investigates counterfeit and fraud related financial crimes including cyber attacks on the nation’s banking and

¹⁴⁰ ICE, “ICE Operations,” <http://www.ice.gov/about/operations.htm> (accessed December 30, 2007).

¹⁴¹ ICE, *FY 2006 Annual Report: Protecting National Security and Upholding Public Safety* (Washington DC: January 16, 2007), 33-36.

¹⁴² Ibid.

telecommunications systems.¹⁴³ The USSS specified three strategic goals and 11 objectives organized under the functional areas of protective, investigative, and support services. Providing foreign law enforcement agencies with investigative training and technical assistance is specified in one of the objectives to reduce financial crimes against the U.S.

Objective: Reduce transnational financial crime under the jurisdiction of the Secret Service.

Means & Strategies:

- Expand our overseas presence in support of our investigative and protective missions;
- Increase liaison, training, and other services to foreign financial institutions and law enforcement agencies to stem the flow of foreign manufactured counterfeit U.S. currency and financial crimes victimizing U.S. financial institutions.¹⁴⁴

U.S. Coast Guard (USCG)

The USCG provides maritime law enforcement, search and rescue, environmental pollution response, and maintains navigational aids. The USCG is a unique service that not only functions as a federal law enforcement agency but also as an armed service of the U.S. military. In addition to their law enforcement authority (Title 14 USC) they can operate under DOD authority (Title 10 USC). There are approximately 40,150 Coast Guardsmen serving on active duty.¹⁴⁵

¹⁴³ USSS, “Mission Statement,” <http://www.secretservice.gov/mission.shtml> (accessed December 31, 2007).

¹⁴⁴ USSS, “Investigative Strategic Goal,” http://www.ustreas.gov/usss/sp_goals_investigative.shtml (assessed December 31, 2007).

¹⁴⁵ USCG, “About Us - Get to Know Your Coasties!,” <http://www.uscg.mil/top/about/> (assessed December 31, 2007).

The USCG's Strategy for Maritime Safety, Security, and Stewardship consist of six strategic priorities. The sixth priority recognizes strengthening international partnerships and building overseas capacity to fulfill global maritime responsibilities.

Focusing international engagement on improving maritime governance:

The nation benefits from strong maritime relationships and capacities around the world because today's global maritime system ties U.S. interests and welfare to the effective maritime governance of all nations and the global commons. The Coast Guard will focus its international efforts to assist maritime organizations and partner nations in building the sustainable regimes, awareness, and operational capabilities necessary to improve the governance of the global maritime domain.¹⁴⁶

The Coast Guard's International Port Security Program assists foreign governments with implementing anti-terrorism measures. USCG also works with the International Maritime Organization (IMO) and through regional cooperation and bilateral agreements to increase security and interdiction efforts.¹⁴⁷ The USCG's integrated maritime law enforcement and military competencies are increasingly in demand to support theater security cooperation and humanitarian assistance programs.¹⁴⁸

DHS Summary

DHS has approximately 208,000 employees working in 25 component organizations. DHS's international engagement efforts have led to enhanced global commerce security requirements and information sharing. Extending the nation's security zone beyond our borders and improving the law enforcement capacity of our

¹⁴⁶ USCG, *2008 Budget in Brief and Performance Report* (Washington DC: February 2, 2007), 4-5.

¹⁴⁷ Ibid., 8-12.

¹⁴⁸ USCG, *Commandant's Statement to the HASC* (Washington DC: December 13, 2007), 2-3.

international partners enhances the protection of the homeland by reducing the impact of transnational crime.¹⁴⁹

Department of State (DOS)

We will support the professionalization and accountability of law enforcement institutions, including border security, and internal defense and military forces. With other donor nations, we will pursue a comprehensive approach to security sector reform in order to harness the capabilities of all interagency actors involved in such reforms.¹⁵⁰

DOS and USAID published a joint Strategic Plan for FY 2007-2012 that contains seven strategic goals and 26 priorities. Seven of the priorities include law enforcement assistance (see table 5.6).¹⁵¹ DOJ has a lead role in DOS/USAID's strategy to provide legal assistance, justice reform, technical assistance and training programs for foreign police forces.¹⁵² Strengthening the police and border enforcement capacity of our regional partners is a major objective of our foreign assistance strategy.

Bureau of Diplomatic Security (DS)

The Bureau of Diplomatic Security (DS) is the State Department's law enforcement and security service. DS protects DOS personnel, property and information at 285 locations worldwide to include visiting foreign dignitaries. DS also investigates passport and visa fraud, locates and extradites fugitives, and provides technical assistance

¹⁴⁹ DHS, *FY 2007 Annual Financial Report* (Washington, DC: November 15, 2007), 2-3.

¹⁵⁰ DOS, *Strategic Plan 2007-2012* (Washington, DC: May 7, 2007), 14.

¹⁵¹ Ibid., 10-12.

¹⁵² Ibid., 16.

and training to foreign law enforcement and security agencies.¹⁵³ In addition, DS administers the Antiterrorism Assistance (ATA) Program.

The ATA program began in 1983 and provides training to foreign law enforcement and security personnel. Training is developed and tailored based on specific country needs assessments. Training is provided by DS and other LEAs, police associations and private security consultants. Training is focused on terrorist response, incident management, and the protection of national borders, critical infrastructure, and national leadership. Training topics include “bomb detection, crime scene investigation, airport and building security, maritime protections, and VIP protection.”¹⁵⁴

DS’s Antiterrorism Assistance (ATA) program developed Pakistan’s Special Investigative Group into an elite counterterrorism unit, and the Albanian State Police ATA-trained Special Operations Unit played a key role in an operation directed against weapons trafficking. DS’s partnership with Indonesian law enforcement authorities shut down a ring of 20 vendors of fraudulent travel documents used by members of the Indonesian terrorist group, Jamal Islamyia.
-Richard J. Griffin, Assistant Secretary, Bureau of Diplomatic Security.¹⁵⁵

DS also leads the Overseas Security and Advisory Council (OSAC). OSAC was initiated in 1985 “to promote security cooperation and information sharing”¹⁵⁶ among private and public sector organizations. OSAC coordinated private-sector hotel security training for

¹⁵³ DOS, DS, “Bureau of Diplomatic Security,” <http://www.state.gov/m/ds/> (accessed January 2, 2008).

¹⁵⁴ DOS, DS, “Antiterrorism Assistance Program,” <http://www.state.gov/m/ds/terrorism/c8583.htm> (accessed January 2, 2008).

¹⁵⁵ DOS, DS, *Diplomatic Security: Partnerships for a Safer World - 2006 Year in Review* (Washington DC: June 18, 2007), 1.

¹⁵⁶ Ibid., 8.

the Jordanian government in 2006 (in response to the November 2005 suicide bombings against western hotels).¹⁵⁷

Table 5.6. DOS/USAID Objectives that included Foreign Law Enforcement Assistance

Strategic Goals		Strategic Priorities	Foreign Law Enforcement Assistance	USG Partners
1	Achieving Peace and Security	Counterterrorism	<i>Where governments are willing but unable to fight terrorism, we will bolster their skills, capacities, and resources.</i>	DOJ DHS Treasury DOD
		Weapons of Mass Destruction & Destabilizing Conventional Weapons	<i>We will work to strengthen other countries' export and border security controls to detect and interdict the illicit movement of WMD.</i>	
		Security Cooperation and Security Sector Reform	<i>We will support efforts to strengthen partner nations' law enforcement, internal defense, and border and maritime security capabilities.</i>	
		Conflict Prevention, Mitigation, and Response	<i>.. will help governments meet immediate demands for security and justice through transformational assistance strategies...</i>	
		Transnational Crime	<i>We will promote international cooperation and coordination on combating international criminal activities, and provide training and technical assistance to build institutional capacity to uphold the rule of law.</i>	
		Homeland Security	<i>We work with foreign counterparts, international organizations, and the private sector through programs such as the Container Security Initiative to improve security standards in the maritime and aviation transportation sectors.</i>	
2	Governing Justly and Democratically	Rule of Law and Human Rights	<i>Ensure an effective and equitable justice system by: improving professional capacities and administrative and operational systems of actors and institutions; developing and implementing fair procedures; expanding access to justice; and ensuring adequate oversight, advocacy, and accountability.</i>	DOJ

Source: Data from U.S. Department of State and U.S. Agency for International Development, *Strategic Plan 2007-2012: Transformational Diplomacy* (Washington, DC: May 7, 2007), 10-42.

Bureau of International Narcotics and Law Enforcement Affairs (INL)

The INL program supports the Administration's comprehensive strategy for combating the global threat of narcotics and organized crime. While attacking the core targets, it emphasizes the need to strengthen host nation capabilities through institution building so that key countries can bolster their own effectiveness in fighting international drug trafficking and crime. The program reflects a long-term commitment to attack these problems globally. It underscores the need to create competent and honest counternarcotics and anticrime forces in countries where laws and institutions are weak, and it promotes more effective action in

¹⁵⁷ Ibid.

nations where motivated and capable enforcement organizations are hampered by a lack of public awareness and political will.¹⁵⁸

INL “advises the President, Secretary of State, other bureaus in the Department of State, and other departments and agencies within the U.S. Government on the development of policies and programs to combat international narcotics and crime.”¹⁵⁹ INL manages the narcotics control and law enforcement affairs elements of U.S. foreign assistance. INL’s capacity building efforts to strengthen foreign criminal justice systems and law enforcement agencies reduces the impacts of illegal drugs and international crime on the U.S. and enhances international cooperation to combat transnational crimes and terrorism.¹⁶⁰

“INL’s programs are tailored to bolster capacities of partner countries around the globe through multilateral, regional, and country-specific programs.”¹⁶¹ Counternarcotics programs “focus on interdiction capabilities, eradication, sustainable alternative development, and demand reduction.”¹⁶² The law enforcement programs “focus on the full spectrum of law enforcement, rule of law and justice sector institutional development.”¹⁶³ These programs include capacity building to interdict, investigate and prosecute major trafficking organizations and enhance border security.

¹⁵⁸ DOS, INL, “International Narcotics and Law Enforcement Affairs: Program and Budget Guide,” <http://www.state.gov/p/lnl/rls/rpt/pbg/> (accessed January 2, 2008).

¹⁵⁹ DOS, INL, “Bureau of International Narcotics and Law Enforcement Affairs,” <http://www.state.gov/p/lnl/> (accessed January 2, 2008).

¹⁶⁰ Ibid.

¹⁶¹ DOS, INL, “INL Regional and Country Programs,” <http://www.state.gov/p/lnl/narc/> (accessed January 2, 2008).

¹⁶² Ibid.

¹⁶³ Ibid.

“INL leads the U.S. delegations that negotiate UN crime-related conventions”¹⁶⁴ and is working with other organizations that develop and promote international standards like the Financial Action Task Force (FATF) to combat money laundering and terrorist financing.¹⁶⁵ INL’s Aviation Division stationed at Patrick AFB, Florida maintains a fleet of 189 fixed/rotary wing aircraft that “support counternarcotics aviation and border security operations.”¹⁶⁶

INL funds the International Law Enforcement Academy (ILEA) program. The program was established in 1995 following President Clinton’s address to the UN General Assembly calling “for the establishment of a network of International Law Enforcement Academies throughout the world to combat international drug trafficking, criminality, and terrorism through strengthened international cooperation.”¹⁶⁷ There are four regional academies serving Europe, Asia, Africa and the Americas, and a graduate facility in Roswell, New Mexico.¹⁶⁸ ILEA Budapest, Hungary opened in 1995; Bangkok, Thailand in 1999; Gaborone, Botswana and Roswell, NM in 2001 and San Salvador, El Salvador in 2006. The ILEA policy board provides oversight and is comprised of senior representatives from the Departments of State, Justice, Homeland Security and Treasury. “The FBI is the lead agency for ILEA Budapest, DEA for Bangkok and FLETC for

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ DOS, “Summary and Highlights – International Affairs Function 150: FY 2008 Budget Request,” (Washington DC: February 5, 2007), 36.

¹⁶⁷ DOS, INL, “International Law Enforcement Academies (ILEA),” <http://www.state.gov/p/inal/ilea/> (accessed January 2, 2008).

¹⁶⁸ Ibid.

Gaborone” and San Salvador.¹⁶⁹ DOS administers ILEA Roswell through an education consortium led by New Mexico Institute of Mining and Technology. Other consortium members include Eastern New Mexico University, Sam Houston State University, and Science Applications International Corporation. ILEA Roswell provides advanced instruction to graduates of the regional academies.¹⁷⁰

INL manages U.S. support to International Civilian Police (CivPol) programs. Over 50 countries have civilian police deployed in support international stabilization and reconstruction operations. These programs are normally sponsored by the United Nations or other regional security organizations like the Organization for Security and Cooperation in Europe (OSCE). The UN has been sponsoring CivPol missions since the 1960 Congo intervention. CivPol missions often involve the International Police providing or augmenting host-nation law enforcement and security functions while rebuilding the nation’s police and judicial institutions. The 1994 U.S. led multinational intervention in Haiti was the first International CivPol mission that the U.S. participated in (involved police from 20 countries). Since then, the U.S. has participated in CivPol missions in Bosnia-Herzegovina, Croatia, Jericho, the Palestinian Authority, Sierra Leone, East Timor, Kosovo, Serbia & Montenegro, Macedonia, Afghanistan, Iraq, Sudan, and Liberia. The U.S. currently has more than 1,600 civilian police deployed supporting international CivPol missions (see table 5.7).

¹⁶⁹ DOS, INL, “ILEA Program Overview,” <http://www.state.gov/p/inl/ilea/c11243.htm> (accessed January 2, 2008).

¹⁷⁰ DOS, INL, “ILEA, Roswell, NM, USA,” <http://www.ilearoswell.org/news/2007recap.aspx> (accessed January 2, 2008).

Table 5.7. INL's Civilian Police and Rule of Law Programs (as of January 2, 2008)

U.S. Civilian Police Programs (Foreign Law Enforcement, Corrections and Judicial Assistance)		
Afghanistan <i>OEF</i>	7x Regional Training Centers (RTCs) Kabul Central Training Center & FOB Islam Qala	<ul style="list-style-type: none"> - 500 police training advisors - specialized training - pay and rank reform - equipment and infrastructure support
	Judicial training (including prosecutors, defense counsel and judges) to improve investigations, police-prosecutor coordination, case management, trial advocacy and adjudication of criminal cases	
	Corrections training with an emphasis on human rights and corrections management and operations	
	Anti-corruption/internal affairs training (Professional Standards Unit)	
Haiti <i>UN Stabilization Mission in Haiti</i>	Screening, training and advising the Haitian National Police (HNP) and Correctional Officers	<ul style="list-style-type: none"> - 53 police/corrections advisors - equipment and infrastructure support
Iraq <i>OIF- Civilian Police Assistance Training Team (CPATT)</i>	Advises, trains, and mentors the Iraqi Police Service and Department of Border Enforcement (MOI)	<ul style="list-style-type: none"> - Int. Police Advisors (IPAs) - specialized training - equipment and infrastructure support
	Training of judges, judicial investigators and other court staff; development of policies, procedures, and technology for tracking defendants through the criminal justice system - creation of a Judicial Protective Service (MOJ)	
	Provides legal and rule of law advisors to Provincial Reconstruction Teams - advises and mentors Iraqi justice officials.	
	Provides corrections advisors and trainers who mentor the newly established Iraqi Corrections Service (ICS)	
	Supports the Major Crimes Task Force	
Kosovo <i>UN Mission In Kosovo (UNMIK)</i>	Provides advisors and trainers who mentor investigators of Iraq's Commission on Public Integrity (improving forensics and crime scene investigations - automating payroll systems to improve accountability and limit corruption)	<ul style="list-style-type: none"> - armed Int. police force of 2,000 officers from 49 countries (incl. 200 U.S. CivPol) - specialized training - equipment and infrastructure support
	Performs the full range of law enforcement functions - develops and trains the Kosovo Police Service (KPS)	
	2008 - US planning to contribute 80-100 officers and 4-6 prosecutors and judges. (in addition to the 200 civilian police officers) and four trainers at the Kosovo Police Academy	
	Supports DOJ's OPDAT Program engaged in the development of Kosovo's Public Prosecutors Office, Judicial Council, Ministry of Justice, and the Law Faculty at the University of Pristina to strengthen and maintain the rule of law	
Lebanon	Supports DOJ's ICITAP program engaged in the development of the Ministry of Internal Affairs (MOIA), Kosovo Police Service (KPS) and criminal justice system through mentoring, training and other technical assistance	
	Reform and enhance the capabilities of the Lebanese Internal Security Forces (ISF) - provide ISF with essential law enforcement training, non-lethal equipment, installation of a communications network and refurbishment of academy and command and control facilities	
	Vet and train members of the Liberian National Police Force (LNP), Special Security Service and the Seaport Police	
Liberia <i>UN Mission to Liberia (UNMIL)</i>	Provide training, equipment, communications and facility construction for LNP's Emergency Response Unit (ERU)	<ul style="list-style-type: none"> - 10 police training advisors - equipment and infrastructure support - 11 justice sector advisors
	Provides justice sector assistance to Liberian counterparts and assesses equipment and infrastructure needs	
	Enhance the capabilities of the Palestinian Authority Security Forces in the West Bank - providing basic, leadership, and refresher training for the National Security Forces and the Presidential Guard	
Palestinian Authority	Upgrading training facilities and providing non-lethal equipment to support operations	
	Develop a Strategic Planning Directorate in MOI to enhance long-term planning, oversight, and reform	
	Develop a secure / stable environment for the upcoming elections and referendum - facilitate comprehensive criminal justice sector development activities to the benefit of Southern Sudan and the Comprehensive Peace Agreement	
Sudan <i>UN Mission in Sudan</i>	-15 police, judicial and corrections officers	

Source: Data from U.S. Dept. of State's Bureau of International Narcotics and Law Enf. Affairs, "Civilian Police and Rule of Law Programs," <http://www.state.gov/p/inl/rls/fs/98167.htm> (accessed January 2, 2008).

INL's CivPol function has expanded, recognizing that past efforts were narrowly focused on the indigenous police and not holistically on the interdependent criminal justice institutions (law enforcement, judicial, and corrections). INL's Office of Civilian Police and Rule of Law (CIV) is responsible for working all aspects of the criminal justice sector. "CIV plans, develops and implements post-conflict reform or redevelopment programs that contain elements addressing each criminal justice system component to maintain equilibrium among all."¹⁷¹

Decisions to deploy CivPol and/or Rule of Law programs in a specific mission are made at the highest levels of the federal government based on consultations among the White House, Department of State, and other agencies. The responsibility for managing U.S. CivPol, Rule of Law and related issues generally rests with the Department of State.¹⁷²

Most nations involved in CivPol missions have a national police force that is para-military in structure and capable of deploying and operating overseas. The U.S. relies on private companies that recruit, train, equip, deploy and sustain civilian police, judicial and corrections officers. DOS provides the funding, policy guidance and oversight for these officers that function as DOS contractors working under the operation control of the supported organization.¹⁷³ DOS currently utilizes three companies to support CivPol missions; Civilian Police International (www.civilianpolice.com), DynCorp International (www.PoliceMission.com), and Pacific Architects & Engineers/Homeland Security Corporation (www.paecivpol.com).¹⁷⁴

¹⁷¹ DOS, INL, "The United States and International Civilian Policing and the Rule of Law (CIV) – July 12, 2007," <http://www.state.gov/p/inl/rls/fs/91396.htm> (accessed September 23, 2007).

¹⁷² Ibid.

¹⁷³ Ibid.

Table 5.8. Foreign Law Enforcement Assistance FY 2008 Budget Request

Regions and Programs	Major Country Changes \$ mil (FY06 - FY08)	FY 2006 Actual \$mil	FY2007 Est. \$mil	FY2008 Request \$mil
International Narcotics Control and Law Enforcement (INCLE)				
Africa	<i>Sudan (0 – 24.) Liberia (1. – 4.1)</i>	3.2		34.2
East Asia/Pacific	<i>Indonesia (5. – 10.1) Thailand (.9 – 2.3) Philippines (2. – 1.2)</i>	10.4		18.2
Europe and Eurasia				.5
Near East	<i>Iraq (0 – 75.8) Iraq Gwot Supl/Emrg (91.4 – 159) Palestine (0 - 3.5.) Lebanon (0 – 1.8)</i>	92.4	260 Iraq Lebanon Gwot suppl	247.3
South/Central Asia	<i>Afghanistan (232.7 – 274.8) Pakistan (35. – 32.) Nepal (0. – 2.7)</i>	267.6		311.8
Western Hemisphere	<i>Haiti (17.5 – 9.) Mexico (39.6 – 27.8) Guatemala (2.5 – 5.3) Nicaragua (0 – 1.6) Columbia Supl (16.3 – 0)</i>	79.8		50.5
Global Programs	<i>Anticrime (10.4 – 14.) Gangs (0 – 5.) Demand Reduction (9.9 – 3.5) ILEAs (15.8 – 16.5) Aviation Div (62.9 – 60.1) International Orgz (4. – 5.5)</i>	126.7		131.1
Total		580.1	963.6 (w/supl)	793.6
Antiterrorism Assistance Programs (ATA)				
Antiterrorism Assistance		122.3		124.3
Terrorist Interdiction		5.4		18.3
Counterterrorism Engagement		1		1
Counterterrorism Financing		7.4		6.4
Total		136.1	21 (w/supl)	150
Other Programs				
Andean Counterdrug Initiative	<i>Interdiction/Alternative Development/ Institution Bldg.- Columbia(367), Peru (36.8),Bolivia(30.),Ecuador(7)</i>	727	569.4	442.8
Spt for East European Democracy (SEED)	<i>Stabilization/Fight Crime & Corruption/Rule of Law/Institution Bldg.- Kosovo(151.2), Serbia(51.3),Bosnia(22.9),Regional(21.2)</i>	357.4	548.2 (w/supl)	289.3

Source: Data from U.S. Dept. of State's, "Summary and Highlights – International Affairs Function 150: FY 2008 Budget Request," (Washington DC: February 5, 2007), 81-82,106-108, 111.

¹⁷⁴ DOS, INL, "International Civilian Police Program (CivPol)," <http://www.state.gov/p/inl/civ/> (accessed January 2, 2008).

DOS Summary

DOS leads the USG interagency efforts working with other nations and international organizations to build sustainable criminal justice institutions (police, prosecutors, courts, prisons) that enforce the rule of law and protect human rights.¹⁷⁵ DOS/USAID's foreign assistance budget request for 2008 has increased 2.3 B (supplemental request reduced 1.5B) from 2006 budget for a real net increase of 800 mil. The majority of this increase went to the Global HIV/AIDS initiative (increased 1.9 B).¹⁷⁶ The 2008 budget request for counternarcotics, law enforcement and antiterrorism programs has increased 227.4 mil over the 2006 budget (see table 5.8). This increase appears to be more of a reprioritization of programs since the Andean Counterdrug and Support for East European Democracy (SEED) programs were reduced by 352.3 mil. However, table 5.8 doesn't reflect all law enforcement assistance. Other assistance programs like: the Independent States of the Former Soviet Union; Peacekeeping; Non-proliferation and Regional Stability; Foreign Military Financing (FMF); and International Military Education and Training (IMET) also include criminal justice development and reform elements that enhance security and build capacity to counter transnational criminal enterprises and terrorists.

¹⁷⁵ DOS, INL, "The United States and International Civilian Policing and the Rule of Law (CIV) – July 12, 2007," <http://www.state.gov/p/lnl/rls/fs/91396.htm> (accessed September 23, 2007).

¹⁷⁶ DOS, "Summary and Highlights – International Affairs Function 150: FY 2008 Budget Request," (Washington DC: February 5, 2007), 11.

Chapter 6

Findings and Recommendations

The primary purpose of the U.S. in providing foreign law enforcement assistance is to reduce the potential threats to the U.S. homeland by enabling its foreign partners to maintain law and order within their own borders. The concept of expanding our security zones beyond our natural borders and enhancing information sharing and international cooperation to interdict and prosecute transnational criminal organizations are key elements in the framework and development of U.S. national security objectives. Exporting domestic law enforcement competencies to overseas partners increases the capacity of these partners to effectively participate in international efforts to counter transnational crime and provide increased protection to global transportation and commerce systems. The challenge remains on how to best expand our federal law enforcement programs to assist foreign governments. Domestically, the law enforcement interagency process works well leveraging the unique capabilities (statutory authorization and appropriations) of the federal LEAs to collectively investigate and prosecute major criminal threats. Overseas, the process works sporadically, due to a lack of understanding, coordination, and oversight. This chapter consolidates findings with an expanded evaluation and synthesis of chapters two through five, provides recommendations, and concludes with an ends, ways and means analysis of conducting overseas law enforcement assistance.

Findings: GAO Study

The GAO study was limited to assessing “the federal government’s efforts to implement the various national security strategies that generally guide law enforcement efforts to help foreign nations combat terrorism, and to determine if the technical and operational assistance implemented by the various U.S. departments and agencies has been reoriented to assist foreign nations to identify, disrupt, and prosecute terrorists.”¹⁷⁷ Despite counterterrorism being among the highest U.S. overseas priorities, focusing exclusively on counterterrorism programs would only be beneficial if the study was limited to developed nations with functioning criminal justice systems. However, the majority of U.S. overseas law enforcement assistance is to nations that are struggling to rebuild and reform criminal justice institutions capable of providing basic law enforcement functions. Developing fundamental police, prosecutorial, judicial and correctional capabilities enables the interdiction and prosecution of not only terrorists but all criminal elements.

The study’s greatest contribution may be that it identified a common lack of understanding and misconception of the federal LEAs’ roles and responsibilities to include the existing coordinating mechanisms for overseas law enforcement assistance. Another limiting factor was that the study principally only focused on eight federal LEAs (FBI, DEA, ATF, USMS, CBP, ICE, USSS and DS) that are execution (action) agencies with their own statutory authority and appropriations. They routinely conduct international operations (joint investigations) on their own authority and funding as an

¹⁷⁷ GAO-07-697, 47.

extension of their domestic responsibilities. Foreign LEAs gain valuable training (as a secondary benefit) from participating in these operations (known as operational assistance). Technical assistance (capacity building) is normally provided utilizing DOS/USAID's authority and international foreign affairs funding.

The study also overlooked the contributions of other federal LEAs (like the USCG) and those coordinating agencies within DOJ, HLS, and DOS that specifically exist for the purpose of planning and coordinating foreign law enforcement assistance (both operational and technical assistance). These agencies include DOJ's Criminal Division, and U.S. National Central Bureau; HLS's Federal Law Enforcement Training Center; and DOS's Bureau of International Narcotics and Law Enforcement Affairs. GAO's findings and recommendations were somewhat skewed and didn't accurately capture the limiting factors to providing overseas law enforcement assistance. The study appeared to focus more on the departments' compliance in implementing performance-based management recommendations from earlier GAO studies.

GAOs Recommendations

GAO concluded that the national strategies to assist foreign nations "lacked key components, such as clearly defined objectives, roles and responsibilities, and procedures for working across agency boundaries toward a common goal, necessary for a strategic plan and for facilitating interagency collaboration."¹⁷⁸ In addition, GAO found that the lack of country needs assessments and program performance reports limited the ability to synchronize developmental efforts. GAO's recommendations were organized in two

¹⁷⁸ GAO-07-697, 3.

groups; one aimed at the NCTC and the other towards the departments (DOJ, HLS, and DOS). Recommendations included the publishing of clear implementation guidance and the establishment of monitoring and reporting systems (see table 2.1, page 9). In addition, GAO suggested that the current U.S. Embassy structure may not be adequate to effectively coordinate foreign law enforcement assistance.

NCTC implementation guidance is not going to improve the process of providing overseas operational or technical law enforcement assistance. The NCTC serves as a bridge between the national law enforcement and intelligence communities coordinating information requirements and national security priorities. The national law enforcement community routinely operates in a collaborative environment across departmental and agency boundaries. The level of participation is dependent on the LEA's statutory authority and appropriated funding. Federal LEAs are committed to the interagency process and providing operational assistance overseas when it facilitates accomplishing their legislative requirements and domestic responsibilities. The limiting factor overseas stems from the lack of country team coordination and program oversight.

Comments from the Department of Justice

Thus, the fundamental mission of U.S. law enforcement representatives overseas is to perform their core missions in foreign locations in furtherance of their overall investigative jurisdiction. The boundaries of their activities, just as in domestic activities, are defined by their statutory jurisdiction.¹⁷⁹

DOJ's Senior Counsel for National Security Affairs provided several comments that contributed to clarifying GAO's final report. DOJ's major issue was that the study reflected a misunderstanding in the roles and responsibilities of the national law

¹⁷⁹ GAO-07-697, 57.

enforcement components and their support to national counterterrorism strategies. DOJ argued that the study failed to adequately define the concepts of overseas law enforcement assistance, and law enforcement support to national counterterrorism strategies. This included a lack of understanding in the interagency LEA approach to providing overseas law enforcement technical assistance (capacity building). Contrary to GAO findings, DOJ argued that their strategic planning system does provide adequate guidance to their LEAs in the execution of their core functions and responsibilities. DOJ also acknowledged their deficiency in providing foreign law enforcement technical assistance guidance since State was the lead for such programs and therefore responsible for the guidance. In addition, DOJ barely mentioned the role that the Criminal Division plays in assisting State with the planning and coordination of technical assistance programs.

DOJ reversed these trends with the publication of their FY2007-2012 Strategic Plan and FY2007 Performance and Accountability Report (see table 5.2, page 35). Both documents provide significant guidance for implementing foreign operational and technical law enforcement assistance. Although DOJ supported the idea of NCTC assuming a lead role in providing policy guidance on law enforcement support to counterterrorism strategies, they also acknowledged the FBI as the lead agency for operational law enforcement and DOS as the lead agency for foreign law enforcement technical assistance.¹⁸⁰ In response to DOJ's comments, GAO incorporated the distinction between operational and technical law enforcement assistance and accepted

¹⁸⁰ GAO-07-697, 53-60.

the argument that general capacity building of foreign criminal justice institutions is a component of combating overseas terrorism.¹⁸¹

Comments from the Department of Homeland Security

HLS generally agreed with GAOs findings, however, like DOJ, stated that its component LEAs had adequate guidance overseas to execute their primary responsibilities. In addition, HLS argued that their border and cargo security initiatives overseas disrupted terrorist travel irrespective of prosecutorial efforts. HLS updated its strategic goal and objectives in their FY7007 Annual Financial Report that included guidance for increased foreign law enforcement operational and technical assistance.¹⁸²

Comments from the Department of State

State's comments were provided by the Office of the Coordinator for Counterterrorism (S/CT). S/CT stressed its limited resources to fully coordinate international counterterrorism efforts and that their Regional Strategic Initiative (RSI) was a successful interagency approach to improving regional counterterrorism coordination. S/CT clarified the Bureau of Diplomatic Security's primary responsibility is to protect U.S. missions and personnel overseas and is the lead agency for investigating passport/visa fraud. Ironically, there were no mention of DS's administration of the ATA program nor any mention of INL's numerous overseas law enforcement capacity building programs. S/CT stated that the department would look at options to improve overseas

¹⁸¹ GAO-07-697, 61-62.

¹⁸² GAO-07-697, 52.

law enforcement coordination. However, expanding DS's role to "coordinating all law enforcement activities overseas would likely require statutory changes."¹⁸³

Findings: Strengthening the Rule of Law

The most-likely threats to regional security are the collapse of weak nation states from internal vice external forces. Improving a nation's internal defenses and border controls enables the criminal justice system to interdict and prosecute the major elements of organized crime (trafficking of drugs, weapons, money, and people). Criminal enterprises (including terrorist) rely on their ability to move unrestricted across borders (both physical and electronic). Tighter border control, global transportation, communication and financial security requirements help to localize their influence and facilitate greater international cooperation to dismantle their illicit business units. Security sector reform is emphasized in DOS/USAID's FY 2007-2012 Strategic Plan. Equitably restoring a host-nation's criminal justice institutions (police, prosecutors, courts and prisons) is a prerequisite toward achieving stability and development. However, long-term progress can only be achieved when domestic stakeholders assume responsibility for their own development.

Findings: Presidential Strategies

GAO's assessment of the national security strategies generally found them lacking in assigning departmental law enforcement responsibilities for combating terrorism. In addition to the national strategies reviewed by GAO, this study included the 2006 version of National Strategy to Combat Terrorism Travel, the 2007 version of the

¹⁸³ GAO-07-697, 63-66.

National Homeland Security Strategy, and the 2007 version of the National Drug Control Strategy. Understanding the legislative authorities and responsibilities of the federal law enforcement agencies is the key to understanding the broad goals and objectives found in the national security strategies. To include, how operational and technical law enforcement assistance facilitates countering all crime, including terrorism.

GAO's study focused on "the combined capabilities of U.S. LEAs to assist foreign nations to identify, disrupt, and prosecute terrorist."¹⁸⁴ Although some of their comments may be technically correct from a counterterrorism perspective, they don't accurately represent the issues and challenges to improving overseas law enforcement assistance efforts. For example, GAO's comments reference State's Coordinator for Counterterrorism (S/CT) accurately reflected that S/CT (who is the interagency lead for overseas counterterrorism efforts) lacked the authority and resources to coordinate foreign law enforcement assistance.¹⁸⁵ This is true but also irrelevant since overseas law enforcement assistance is predominantly coordinated by State's INL and DS, and DOJ's FBI and Criminal Division for the purpose of combating all crime (not just terrorism).

The U.S. national strategies provide broad goals and objectives to assist foreign partners, strengthening criminal justice institutions, and building capacity to facilitate international law enforcement and intelligence efforts against organized crime and terrorists' networks. The national strategies include enhanced transportation security initiatives to reduce smuggling, illicit trade, and terrorist mobility. This includes building strong regional partnerships capable of transnational threat management. Any

¹⁸⁴ GAO-07-697, 17.

¹⁸⁵ Ibid.

disconnects found in the ends, ways and means of providing foreign law enforcement assistance are more attributable to the lack of congressional support than the lack of strategic guidance. The 2007 version of the NSHS suggested that congress restructure its oversight committee process in order to provide clearer guidance, establish consistent priorities, and “fully embrace a risk-based funding approach” to prioritizing limited resources.¹⁸⁶

Findings: Departmental Strategies & Execution

GAO recommended that Justice, Homeland Security and State issue clearer guidance to gain the full capabilities of their respective LEAs in assisting foreign counterparts. They also recommended establishing a monitoring system that provides Congress better visibility of their accomplishments and challenges. These same recommendations could have applied equally to many other departmental programs, and are not exclusive to providing overseas law enforcement assistance. However, GAO’s comments may have influenced the departments in 2007 as reflected in their updated strategies and annual performance reports. Common strategies included expanding collaborative partnerships, joint/international criminal investigations, increased law enforcement and intelligence sharing, enhanced border security screening and technological improvements.

DOJ’s 2007-2012 Strategic Plan was published several months after the GAO study and clearly articulated their strategic objectives, strategies and responsible lead component organization (see table 5.2, page 35). DOJ’s Criminal Division is responsible

¹⁸⁶ NSHS, 2007, 51.

for leading the majority of the department's overseas capacity building programs. Criminal Division's ICITAP and OPDAT programs focus on developing or reforming foreign criminal justice systems (law enforcement, corrections, prosecutors and courts) while FBI Legats coordinate operational assistance between domestic and foreign LEAs. In addition, DEA has been expanding its counterdrug training programs.

DHS updated its goals and objectives in their 2007 Annual Financial Report. The linkage between their objectives and lead component agencies was not as apparent as DOJ's (see table 5.4, page 47). However, CBP's overseas initiatives and FLETC's support of the International Law Enforcement Academies are noteworthy accomplishments.

DOS published its 2007-2012 Strategic Plan a few weeks earlier than the GAO's report. Similar to DHS, the linkage between objectives and lead responsible agency was not as evident as DOJ's guidance (see table 5.6, page 56). However, in other State documents (including the 2008 foreign assistance budget request), the roles of DS and INL are clearer. They are responsible for coordinating the interagency (whole of government) approach to overseas law enforcement capacity building programs. INL's civilian police and rule of law programs have expanded to address all elements of the criminal justice system (see table 5.7, page 60).

The Interagency Working Group on Criminal Justice Sector Evaluation led by INL has recently established a standardized framework to assess the capacity of criminal justice systems. The Criminal Justice Sector Assessment Rating Tool (CJSART) provides standardized international benchmarks to measure six elements of the criminal

justice system: laws (criminal code); judicial institutions (judges, prosecutors and defense attorneys); law enforcement (police, investigations, and forensics); border security (ports of entry, customs and security); corrections system (prison and detention facilities); and international cooperation (adherence to treaties and international agreements). The tool has already been utilized to conduct assessments in Georgia, Guatemala and Sudan and its application should be required for all DOS/USAID funded law enforcement assistance programs.¹⁸⁷ “The CJSART is the first USG attempt to comprehensively identify the crucial components of a healthy criminal justice system, assess them, and create a framework for improving rule of law over the long term.”¹⁸⁸

Recommendations

The overall effectiveness of law enforcement assistance programs has been limited by the lack of overseas coordination and oversight. In order to maximize the collaborative efforts of the national law enforcement community, someone must be in charge of the process. The Department of State has the authorization, appropriations and responsibility to lead foreign law enforcement assistance programs. Recommendation: This study makes four observations that would improve interagency coordination, oversight accountability, and program effectiveness.

1. In-country law enforcement oversight is the overall responsibility of the Regional Security Officer (RSO), Bureau of Diplomatic Security.

¹⁸⁷ INL, *Criminal Justice Sector Assessment Rating Tool* (Washington, DC: January 2008), 3-6.

¹⁸⁸ Ibid., 4.

Similar to FBI's lead role domestically, DS is the lead agency overseas. The RSO is responsible to the Chief of Mission for all in-country law enforcement and security issues. DS already works closely with foreign counterparts ensuring security of the country team, investigating passport and visa fraud, and managing the ATA program. Depending on the type of law enforcement assistance, other agencies are also involved in the coordination, prioritization and synchronization efforts. FBI's Legal Attachés facilitate the coordination of overseas operational law enforcement assistance efforts (operational assistance is provided as an extension of the federal LEAs own authority and appropriations). State's INL and Justice's Criminal Division lead in facilitating the coordination of overseas law enforcement technical assistance (capacity building) programs.

2. State's INL is responsible for leading the interagency planning and coordination efforts to prioritize and synchronize foreign law enforcement technical assistance (capacity building) programs.

State's Diplomatic Security Bureau and Justice's Criminal Division are key players in assisting INL with this process. INL's Civilian Police and Rule of Law programs are tailored to country specific needs, however, until recently, there didn't appear to be any effort to prioritizing and synchronizing assistance efforts. Federal LEAs assisted where and when it most benefited them in accomplishing their primary responsibilities and not necessarily considering the second and third order affects. Sequencing the balanced parallel development of the criminal justice sector is the only way to ensure long-term progress. Committing resources to a single institutional reform program may produce short-term gains but most likely will atrophy if the other criminal

justice institutions are not reformed along the same lines. Establishing and prioritizing regional and country specific law enforcement assistance objectives will facilitate the departments and federal LEAs to plan and match resources consistent with their core competencies.

3. Expand INL's annual International Narcotics Control Strategy Report (INCSR) to include other major trafficking operations underpinning transnational crime.

The report consists of two volumes; drug and chemical control, and money laundering and financial crimes. The INCSR currently provides country assessments on those nations that have received assistance in the past two years and their progress on meeting the UN's drug convention objectives. INL assembles the report with assistance from Justice, Homeland Security, Treasury, and State. Expanding the INCSR concept to include weapons and human trafficking, and utilizing the Criminal Justice Sector Assessment Rating Tool (CJSART) framework for country specific assessments, would provide a consolidated interagency source document for planning, prioritizing and synchronizing regional and country specific law enforcement capacity building programs. The CJSART utilizes standardized international benchmarks to measure criminal justice institutional capabilities and limitations (police, prosecutors, courts and prisons).

4. Expand the ILEA Policy Board's role to prioritize all foreign law enforcement capacity building programs.

This coordination board (comprised of senior-level representatives from State, Justice, Homeland Security and Treasury) already provides oversight to the ILEA program. With limited resources to provide overseas law enforcement technical

assistance, senior oversight is not only required to prioritize and synchronize regional and country specific programs, but also to highlight the accomplishments and challenges to departmental and congressional leadership. Foreign law enforcement capacity building programs are conducted by federal LEAs under the authority of State's authorization and appropriations.

Ends, Ways and Means

The United States should work with other countries and organizations to anticipate state failure, avoid it whenever possible, and respond quickly and effectively when necessary and appropriate to promote peace, security, development, democratic practices, market economies, and the rule of law.¹⁸⁹

National Security Presidential Directive /NSPD-44 (dated 7 December 2005), designates State's Coordinator for Reconstruction and Stabilization (S/CRS) as the lead agency for coordinating an integrated U.S. Government approach to stabilization and reconstruction activities. This includes coordination with DOD on "planned or ongoing U.S. military operations across the spectrum of conflict."¹⁹⁰ NSPD-44 established a Policy Coordination Committee (PCC) for reconstruction and stabilization operations to facilitate this process but the framework for integrating contingency plans, establishing lead and support relationships, responsibility and accountability are still lacking.¹⁹¹

¹⁸⁹ NSC, *National Security Presidential Directive / NSPD-44* (Washington, DC: December 7, 2005), 2.

¹⁹⁰ Ibid., 2.

¹⁹¹ Ibid., 5.

DOD Directive 3000.05 (dated 28 November 2005) established stability operations as a core function that DOD will be prepared to support or conduct to the same level as combat operations. Stability operations include all “activities conducted across the spectrum from peace to conflict to establish or maintain order in States and regions.”¹⁹² Stability requirements will be identified in all phases of an operation integrating military and civilian efforts working closely with other U.S. governmental agencies, international organizations, non-governmental organizations and private sector companies.¹⁹³

DOD’s planning construct consist of six phases that begin and end with shaping operations known as phase-zero (see figure 6.1). The level of military effort inversely increases or decreases in relationship to stability.

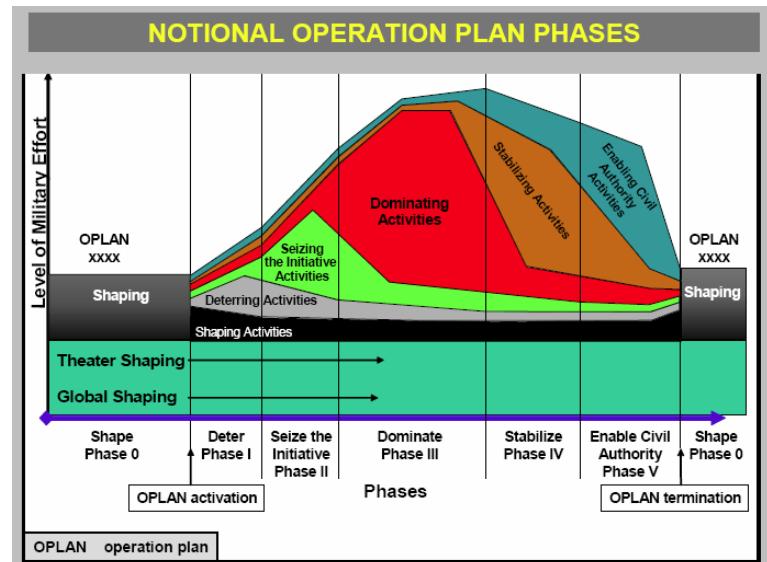


Figure 6.1. DOD, JCS, *Joint Operation Planning*, Joint Pub. 5-0 (Washington DC: December 26, 2006), IV-34.

Phase-zero efforts are aimed at enabling foreign governments to prevent the failed state scenario. “Planning that supports most “shaping” requirements typically occurs in the context of day-to-day security cooperation.”¹⁹⁴ Foreign law enforcement assistance is most

¹⁹² DOD, *Military Support for Stability, Security, Transition, and Reconstruction (SSTR) Operations: DOD Directive 3000.05* (Washington, DC: November 28, 2005), 2.

¹⁹³ Ibid., 3.

effective during phase zero when integrated and synchronized with other elements of national power.

Foreign law enforcement assistance is not limited due to the lack of strategic guidance or the ability of the federal LEAs to support overseas programs. The real issue is the lack of operational planning that links strategic objectives (ends) to the tactical actions of all supporting agencies (means) and other elements of national power. Therefore, the integration and synchronization of assistance efforts over time is severely degraded due to the inadequate planning and coordination process (ways).

“Strategic guidance should provide a clear understanding of purpose, but could require interpretation and clarification as planning progresses.”¹⁹⁵ The NSC leads interagency coordination at the national level and DOS leads the interagency coordination at the country team level (see figure 6.2). However, regional coordination is not clearly designated. DOS has regional bureaus that coordinate with DOD’s regional combatant commands but military and civilian efforts are not fully integrated. Operational planning is a DOD core competency exercised primarily at the regional level and unequaled within the USG interagency. The establishment of Africa

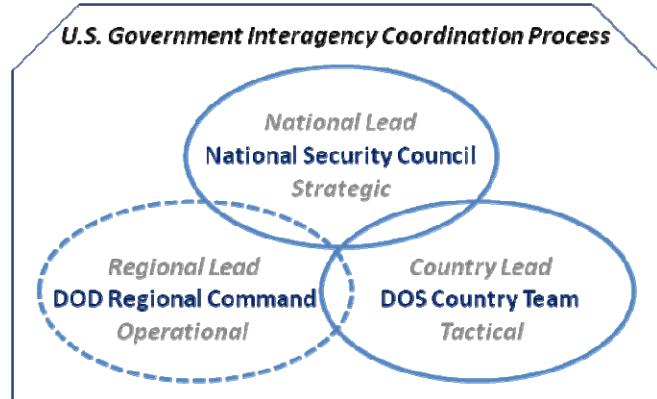


Figure 6.2.

¹⁹⁴ DOD, JCS, *Joint Operation Planning*, Joint Publication 5-0 (Washington DC: December 26, 2006), IV-35.

¹⁹⁵ DOD, Joint Publication 5-0, III-5.

Command (AFRICOM) with its hybrid interagency structure and the internal reorganization efforts of Southern Command (SOUTHCOM) should provide successful models for better integration of civilian and military security cooperation efforts during phase-zero engagement. However, full integration of USG efforts may require even broader reorganization and transformation of DOD's regional commands. In order to maintain a competitive advantage and remain relevant, effective organizations evolve consistently with their operational environment.

The risks associated with not improving the USG's operational level planning, coordination and oversight process are high. Without an organization capable and responsible to fully integrate military and civilian competencies, the USG will continue to miss opportunities, duplicate efforts and waste critical resources (people, money, and time). The number of failing states and transnational crime could potentially increase demanding even more military involvement. Providing law enforcement assistance is less costly and focused on preventing failed states. Law enforcement is an underappreciated element of national power that compliments military efforts and provides alternative solutions to national security problems.

Chapter 7

Conclusion

This paper examined law enforcement as an element of national power and found that U.S. strategy and organizational approach to conducting foreign law enforcement assistance limits the effectiveness of overseas programs. Advances in security technology and the fusion of the national intelligence and national law enforcement communities have significantly enhanced interagency coordination and integration to protect the U.S. homeland but have failed to generate a constructive framework for synchronizing overseas assistance efforts. The concept of expanding U.S. security zones beyond physical borders and enabling foreign partners to maintain law and order within their own borders reduces the impact of transnational crime in the U.S. However, the ad-hoc coordination and integration process of providing overseas law enforcement assistance continues to limit its overall effectiveness.

The best defense in protecting the U.S. homeland is prevention that involves steady engagement overseas to prevent weak states from total collapse and anarchy. Due to limited resources, the U.S. can no longer afford its desynchronized approach to foreign criminal justice reform and development programs. Interagency program oversight responsibility and accountability must be established, enforced and appropriately coordinated and sequenced in order to obtain long-term reform and development.

Foreign law enforcement assistance programs are defined by legislative authorization and appropriated funding. Operational assistance is an extension of a federal law enforcement agency's statutory and budget authority. Technical assistance

(capacity building) is conducted by federal LEAs working under the Department of State's statutory and budget authority. The interim solution to improving overseas coordination and synchronization is to reinforce State's oversight role and responsibilities. Overseas, the U.S. interagency is replicated by the country team led by the Chief of Mission. The lead law enforcement agency is State's Bureau of Diplomatic Security (DS) led by the Regional Security Officer (RSO). The RSO should have oversight of all in-country law enforcement assistance efforts. State's Bureau of International Narcotics and Law Enforcement Affairs (INL) is the lead agency for planning and coordinating interagency law enforcement technical assistance (capacity building) programs. The Department of Justice Criminal Division assists INL with the coordination and execution process.

The long-term solution will require new organizational concepts that fully integrate the civil and military capacities of the U.S. Government and are capable of implementing complex national strategies in a resource constraint ever changing environment. The establishment of Africa Command and the reorganization of Southern Command; potentially transforming DOD's Regional Combatant Commands into interagency operational level enablers would significantly improve the whole of government's approach to minimizing the harmful effects of failing states. In assessing foreign law enforcement assistance from an ends, ways and means construct; it's the ways that is lacking in sequencing programs over time to produce real long-term development. Bridging this operational gap not only requires better U.S. synchronization but also the integration of regional and international assistance programs.

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Colonel Davies has served in numerous command (Platoon Leader to Battalion Commander) and staff (Assistant Operations Officer to Provost Marshal) assignments in the U.S., Korea and Germany. His operational tours include the Gulf War where he served as a MP Battalion Battle Captain; Central America where he served as the Mine Awareness Officer on the Intra-American Defense Board's Demining Team; and most recently in Operation Iraqi Freedom as the 89th MP Brigade's Deputy Commander for Operations. While serving in Iraq, his functions included the coordination and synchronization of Iraqi Police Service development with Multinational Corps-Iraq and the Civilian Police Assistance Training Team. This included the employment of 200+ Police Transitions Teams (with Civilian Police Officers and interpreters) throughout Iraq.

